99TH CONGRESS
2d Session

HOUSE OF REPRESENTATIVES

REPORT
99-735

ELIMINATION OF GENDER-BASED LANGUAGE DISTINCTIONS IN TITLE 38, UNITED STATES CODE

AUGUST 1, 1986.—Committed to the Committee of the Whole House on the State of the Union and ordered to be printed

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Mr. MONTGOMERY, from the Committee on Veterans' Affairs, submitted the following

SEP 3 1986

REPORT

U. S. GOVT. PUBS.
DEPOSITORY 376

[To accompany H.R. 5047]

The Committee on Veterans' Affairs, to whom was referred the bill (H.R. 5047) to amend title 38, United States Code, to eliminate gender-based language distinctions in title 38, United States Code, and to make technical corrections in that title, having considered the same, report favorably thereon without amendment by unanimous voice vote and recommend that the bill do pass.

DISCUSSION OF THE REPORTED BILL

In July, 1984, the Chairman of the Committee on Veterans' Affairs introduced a bill for himself and three other members of the Committee to eliminate gender-based distinctions in laws providing benefits to veterans. That bill (H.R. 6047, 98th Congress) was reviewed by a number of persons and was substantially modified to take into account suggestions for improving the manner in which title 38 of the United States Code describes the authority to carry out programs providing benefits to veterans.

The reported bill is designed to eliminate all gender-based distinctions in title 38. These distinctions are the result of a style of writing legislation which used masculine pronouns and references as a substitute for references to the person responsible for carrying out particular functions. This style is no longer appropriate.

Today, women are entering the Armed Forces in record numbers, and the number of women veterans is growing proportionately. Women serve in the highest levels of the Veterans Administration and other agencies and departments of the Federal government. Therefore, it seems only appropriate to eliminate any vestige in

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title 38, United States Code, which makes any distinction between men and women.

Oversight Findings

No oversight findings have been submitted to the Committee by the Committee on Government Operations.

Committee Cost Estimate

The Committee estimates that there will be no cost associated with the enactment of this measure.

Inflationary Impact Statement

The reported bill would have no inflationary impact.

Agency Reports

The Committee received the following views from the Veterans' Administration:

VETERANS' ADMINISTRATION,
OFFICE OF THE ADMINISTRATOR OF VETERANS AFFAIRS,
Washington DC, July 29, 1986.

Hon. G.V. (SONNY) MONTGOMERY,
Chairman, Committee on Veterans' Affairs, House of Representatives, Wcshington, DC.

DEAR MR. CHAIRMAN: This is in reply to your letter of June 27, 1986, requesting the views of the Veterans Administration on H.R. 5047.

This bill would make technical amendments to title 38, U.S. Code, by eliminating gender-based distinctions in references to individuals having equal standing under the law.

We have reviewed the bill and compared it to H.R. 6047, 98th Congress, and the Discussion Draft of May 6, 1985, for which you and your staff solicited our comments. We find that all the significant problems we noted in our earlier comments have been cured by the present bill. Accordingly, we favor enactment of H.R. 5047.

Advice has been received from the Office of Management and Budget that there is no objection to the presentation of this report from the standpoint of the Administration's program.

Sincerely,

THOMAS K. TURNAGE,
Administrator.

Changes in Existing Law Made by the Bill, as Reported

Changes in existing law made by the draft bill are shown as follows (existing law proposed to be omitted is enclosed in black brackets, new matter is printed in italic, existing law in which no change is proposed is shown in roman):

TITLE 38, UNITED STATES CODE

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PART I—GENERAL PROVISIONS

* * * * * * *

CHAPTER 1—GENERAL

Sec.
101. Definitions.
102. Dependent parents[; husbands].

* * * * * * *

§ 101. Definitions

For the purposes of this title—

(1) * * *

* * * * * * *

(22) The term "active duty for training" means—

(A) * * *

* * * * * * *

(C) in the case of members of the Army National Guard or Air National Guard of any State, full-time duty under section 316, 502, 503, 504, or 505 of title 32, or the prior corresponding provisions of law;

* * * * * * *

(23) The term "inactive duty training" means—

(A) duty (other than full-time duty) prescribed for Reserves (including commissioned officers of the Reserve Corps of the Public Health Service) by the Secretary concerned under section 206 of title 37 or any other provision of law; and

(B) special additional duties authorized for Reserves (including commissioned officers of the Reserve Corps of the Public Health Service) by an authority designated by the Secretary concerned and performed by them on a voluntary basis in connection with the prescribed training or maintenance activities of the units to which they are assigned.

In the case of a member of the *Army* National Guard or Air National Guard of any State, such term means duty (other than full-time duty) under sections 316, 502, 503, 504, or 505 of title 32, or the prior corresponding provisions of law. Such term does not include (i) work or study performed in connection with correspondence courses, (ii) attendance at an educational institution in an in-

active status, or (iii) duty performed as a temporary member of the Coast Guard Reserve.

* * * * * * *

(27) The term "reserve component" means, with respect to the Armed Forces—

(A) * * *

* * * * * * *

(F) the *Army* National Guard of the United States; and

* * * * * * *

(31) The term "spouse" means a person of the opposite sex who is a wife or husband [and the term "surviving spouse" means a person of the opposite sex who is a widow or widower].

* * * * * * *

§ 102. Dependent parents[; husbands]

(a)[(1)] Dependency of a parent, which may arise before or after the death of a veteran, shall be determined in accordance with regulations prescribed by the Administrator.

[(2)](*b*) Dependency of a parent shall not be denied [(A)] (*1*) solely because of remarriage, or [(B)] (*2*) in any case in any State where the monthly income for a mother or father does not exceed minimum levels which the Administrator shall prescribe by regulation, giving due regard to the marital status of the mother or father and additional members of the family whom the mother or father is under a moral or legal obligation to support.

[(3) For the purposes of this subsection] (*c*) *For the purposes of this section,* in determining monthly income the Administrator shall not consider any payments under laws administered by the Veterans' Administration because of disability or death or payments of bonus or similar cash gratuity by any State based upon service in the Armed Forces.

[(b) For the purposes of this title, (1) the term "wife" includes the husband of any female veteran; and (2) the term "widow" includes the widower of any female veteran.]

§ 103. Special provisions relating to marriages

(a) Whenever, in the consideration of any claim filed by a [woman as the widow] *person as the widow or widower* of a veteran for gratuitous death benefits under laws administered by the Veterans' Administration, it is established by evidence satisfactory to the Administrator that [she,] *such person,* without knowledge of any legal impediment, entered into a marriage with such veteran which, but for a legal impediment, would have been valid, and thereafter cohabited with [him] *the veteran* for one year or more immediately before [his] *the veteran's* death, or for any period of time if a child was born of the purported marriage or was born to them before such marriage, the purported marriage shall be deemed to be a valid marriage, but only if no claim has been filed by a legal widow *or widower* of such veteran who is found to be entitled to such benefits. No duplicate payments shall be made by virtue of this subsection.

(b) Where a [widow] *surviving spouse* has been legally married to a veteran more than once, the date of original marriage will be used in determining whether the statutory requirement as to date of marriage has been met.

(c) In determining whether or not a [woman is or was the wife] *person is or was the spouse* of a veteran, their marriage shall be proven as valid for the purposes of all laws administered by the Veterans' Administration according to the law of the place where the parties resided at the time of the marriage or the law of the place where the parties resided when the right to benefits accrued.

(d)(1) The remarriage of the [widow of a veteran shall not bar the furnishing of benefits to her as the widow] *surviving spouse of a veteran shall not bar the furnishing of benefits to such person as the surviving spouse* of the veteran if the remarriage is void, or has been annulled by a court with basic authority to render annulment decrees unless the Veterans' Administration determines that the annulment was secured through fraud by either party or collusion.

(2) The remarriage of the [widow] *surviving spouse* of a veteran shall not bar the furnishing of benefits to [her] *such person* as the [widow] *surviving spouse* of the veteran of the remarriage has been terminated by death or has been dissolved by a court with basic authority to render divorce decrees unless the Veterans' Administration determines that the divorce was secured through fraud by the [widow] *surviving spouse* or collusion.

(3) If a [widow] *surviving spouse* ceases living with another [man] *person* and holding *himself or* herself out openly to the public as [his wife] *that person's spouse,* the bar to granting [her] *that person* benefits as the [widow] *surviving spouse* of the veteran shall not apply.

* * * * * * *

§ 104. Approval of educational institutions

(a) For the purpose of determining whether or not benefits are payable under this title (except chapter 35 of this title) for a child over the age of eighteen years and under the age of twenty-three years who is attending a school, college, academy, seminary, technical institute, university, or other educational institution, the Administrator may approve or disapprove such educational institutions.

(b) The Administrator may not approve an educational institution under this section unless such institution has agreed to report to [him] *the Administrator* the termination of attendance of any child. If any educational institution fails to report any such termination promptly, the approval of the Administrator shall be withdrawn.

§ 105. Line of duty and misconduct

(a) An injury or disease incurred during active military, naval, or air service will be deemed to have been incurred in line of duty and not the result of the veteran's own misconduct when the person on whose account benefits are claimed was, at the time the injury was suffered or disease contracted, in active military, naval, or air service, whether on active duty or on authorized leave,

unless such injury or disease was the result of [his] *the person's* own willful misconduct. Venereal disease shall not be presumed to be due to willful misconduct if the person in service complies with the regulations of the appropriate service department requiring [him] *the person* to report and receive treatment for such disease.

(b) The requirement for line of duty will not be met if it appears that at the time the injury was suffered or disease contracted the person on whose account benefits are claimed (1) was avoiding duty by deserting the [service, or by absenting himself] *service or by absenting himself or herself* without leave materially interfering with the performance of military duties; (2) was confined under sentence of court-martial involving an unremitted dishonorable discharge; or (3) was confined under sentence of a civil court for a felony (as determined under the laws of the jurisdiction where the person was convicted by such court).

§ 106. Certain service deemed to be active service

(a)(1) * * *

* * * * * * *

(b) Any person—

(1) who has applied for enlistment or enrollment in the active military, naval, or air service and has been provisionally accepted and directed or ordered to report to a place for final acceptance into such service; or

(2) who has been selected or drafted for service in the Armed Forces and has reported pursuant to the call of [his] *the person's* local draft board and before rejection; or

(3) who has been called into the Federal service as a member of the National Guard, but has not been enrolled for the Federal service; and

who has suffered an injury or contracted a disease in line of duty while en route to or from, or at, a place for final acceptance or entry upon active duty, will, for the purposes of chapters 11, 13, 19, 21, 31, and 39 of this title, and for purposes of determining service-connection of a disability under chapter 17 of this title, be considered to have been on active duty and to have incurred such disability in the active military, naval, or air service.

(c) For the purposes of this title, an individual discharged or released from a period of active duty shall be deemed to have continued on active duty during the period of time immediately following the date of such discharge or release from such duty determined by the Secretary concerned to have been required for [him] *that individual* to proceed to [his] *that individual's* home by the most direct route, and in any event [he] *that individual* shall be deemed to have continued on active duty until midnight of the date of such discharge or release.

(d) For the purposes of this title, any individual—

(1) who, when authorized or required by competent authority, assumes an obligation to perform active duty for training or inactive duty training; and

(2) who is disabled or dies from an injury incurred [by him] while proceeding directly to or returning directly from such

active duty for training or inactive duty training, as the case may be;

shall be deemed to have been on active duty for training or inactive duty training, as the case may be, at the time such injury was incurred. In determining whether or not such individual was so authorized or required to perform such duty, and whether or not [he] *such individual* was disabled or died from injury so incurred, the Administrator shall take into account the hour on which [he] *such individual* began so to proceed or to return; the hour on which [he] *such individual* was scheduled to arrive for, or on which [he] *such individual* ceased to perform, such duty; the method of travel employed; [his] *the* itinerary; the manner in which the travel was performed; and the immediate cause of disability or death. Whenever any claim is filed alleging that the claimant is entitled to benefits by reason of this subsection, the burden of proof shall be on the claimant.

* * * * * * *

§ 107. Certain service deemed not to be active service

(a) Service before July 1, 1946, in the organized military forces of the Government of the Commonwealth of the Philippines, while such forces were in the service of the Armed Forces of the United States pursuant to the military order of the President dated July 26, 1941, including among such military forces organized guerrilla forces under commanders appointed, designated, or subsequently recognized by the Commander in Chief, Southwest Pacific Area, or other competent authority in the Army of the United States, shall not be deemed to have been active military, naval, or air service for the purposes of any law of the United States conferring rights, privileges, or benefits upon any person by reason of the service of such person or the service of any other person in the Armed Forces, except benefits under—

(1) contracts of National Service Life Insurance entered into before February 18, 1946;

(2) chapter 10 of title 37; and

(3) chapters 11, 13 (except section 412(a)), and 23 of this title.

Payments under such chapters shall be made at a rate in pesos as is equivalent to $0.50 for each dollar authorized, and where annual income is a factor in entitlement to benefits, the dollar limitations in the law specifying such annual income shall apply at a rate in Philippine pesos as is equivalent to $0.50 for each dollar. Any payments made before February 18, 1946, to any such member under such laws conferring rights, benefits, or privileges shall not be deemed to have been invalid by reason of the circumstance that [his] *such member's* service was not service in the Armed Forces or any component thereof within the meaning of any such law.

* * * * * * *

§ 108. Seven-year absence presumption of death

(a) * * *

(b) If evidence satisfactory to the Administrator is submitted establishing the continued and unexplained absence of any individual

from [his] *that individual's* home and family for seven or more years, and establishing that after diligent search no evidence of [his] *that individual's* existence after the date of disappearance has been found or received, the death of such individual as of the date of the expiration of such period shall be considered as sufficiently proved.

* * * * * * *

§ 109. Benefits for discharged members of allied forces

(a)(1) * * *

* * * * * * *

(b) Persons who served in the active service in the armed forces of any government allied with the United States in World War II and who at time of entrance into such active service were citizens of the United States shall, by virtue of such service, and if otherwise qualified, be entitled to the benefits of chapters 31 and 37 of this title in the same manner and to the same extent as veterans of World War II are entitled. No such benefit shall be extended to any person who is not a resident of the United States at the time of filing claim, or to any person who has applied for and received the same or any similar benefit from the government in whose armed forces [he] *such person* served.

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CHAPTER 3—VETERANS' ADMINISTRATION; OFFICERS AND EMPLOYEES

* * * * * * *

Subchapter II—Administrator of Veterans' Affairs

§ 210. Appointment and general authority of Administrator: Deputy Administrator

(a) The Administrator of Veterans' Affairs is the head of the Veterans' Administration. [He] *The Administrator* is appointed by the President, by and with the advice and consent of the Senate.

(b)(1) The Administrator, under the direction of the President, is responsible for the proper execution and administration of all laws administered by the Veterans' Administration and for the control, direction, and management of the Veterans' Administration. Except to the extent inconsistent with law, [he] *the Administrator* may consolidate, eliminate, abolish, or redistribute the functions of the bureaus, agencies, offices, or activities in the Veterans' Administration, create new bureaus, agencies, offices, or activities therein, and fix the functions thereof and the duties and powers of their respective executive heads.

(2)(A) The Administrator may not in any fiscal year implement an administrative reorganization described in subparagraph (B) of this paragraph unless the Administrator first submits to the appropriate committees of the Congress a report containing a detailed plan and justification for the administrative reorganization. Any such report shall be submitted not later than the day on which the President, pursuant to section 1105 of title 31, submits to the Con-

gress the Budget for the fiscal year in which the administrative reorganization is to be implemented. No action to carry out such reorganization may be taken after the submission of such report until the first day of such fiscal year.

(B) Subparagraph (A) of this paragraph applies only to an administrative reorganization within the Veterans' Administration that involves a reduction during any fiscal year in the number of full-time equivalent employees with permanent duty stations at a covered office or facility—

(i) by 10 percent or more, or

(ii) by a percent which, when added to the percent reduction under this subsection in the number of such employees with permanent duty stations at such office or facility during the preceding fiscal year, is 15 percent or more.

(C) For purposes of this paragraph—

(i) The term "administrative reorganization" means a consolidation, elimination, abolition, or redistribution of functions under the authority granted the Administrator under the second sentence of paragraph (1) of this subsection.

(ii) The term "covered office or facility" means a Veterans' Administration office or facility that is the permanent duty station for 25 or more employees or that is a free-standing outpatient clinic.

(c)(1) The Administrator has authority to make all rules and regulations which are necessary or appropriate to carry out the laws administered by the Veterans' Administration and are consistent therewith, including regulations with respect to the nature and extent of proofs and evidence and the method of taking and furnishing them in order to establish the right to benefits under such laws, the forms of application by claimants under such laws, the methods of making investigations and medical examinations, and the manner and form of adjudications and awards. Any rules, regulations, guidelines, or other published interpretations or orders, or any amendment thereto, issued pursuant to the authority granted by this subsection or any other provision of this title shall contain, immediately following each substantive provision of such rules, regulations, guidelines, or other published interpretations or orders, or any amendment thereto, citations to the particular section or sections of statutory law or other legal authority upon which such rule, regulation, guideline, or other published interpretation or order is based or, in the case of any amendment thereto, upon which such amendment and the rule, regulation, guideline, interpretation or order being amended is based.

(2) If the Administrator determines that benefits administered by the Veterans' Administration have not been provided by reason of administrative error on the part of the Federal Government or any of its employees, [he] *the Administrator* is authorized to provide such relief on account of such error as [he] *the Administrator* determines equitable, including the payment of moneys to any person whom he determines equitably entitled thereto.

(3)(A) If the Administrator determines that any veteran, [widow,] *surviving spouse,* child of a veteran, or other person, has suffered loss as a consequence of reliance upon a determination by the Veterans' Administration of eligibility or entitlement to bene-

fits, without knowledge that it was erroneously made, [he] *the Administrator* is authorized to provide such relief on account of such error as [he] *the Administrator* determines equitable, including the payment of moneys to any person whom [he] *the Administrator* determines equitably entitled thereto.

(B) The Administrator shall submit an annual report to the Congress on January 1, 1973, and each succeeding year containing a brief summary, including a statement as to the disposition of each case recommended to [him] *the Administrator* for equitable relief under this paragraph.

(d) There shall be in the Veterans' Administration a Deputy Administrator of Veterans' Affairs who shall be appointed by the President, by and with the advice and consent of the Senate. The Deputy Administrator shall perform such functions as the Administrator shall designate and, unless the President shall designate another officer of the Government, shall be Acting Administrator of Veterans' Affairs during the absence or disability of the Administrator or in the event of a vacancy in the office of Administrator.

* * * * * * *

§ 212. Delegation of authority and assignment of duties

(a) The Administrator may assign duties, and delegate, or authorize successive redelegation of, authority to act and to render decisions, with respect to all laws administered by the Veterans' Administration, to such officers and employees as [he] *the Administrator* may find necessary. Within the limitations of such delegations, redelegations, or assignments, all official acts and decisions of such officers and employees shall have the same force and effect as though performed or rendered by the Administrator.

* * * * * * *

§ 213. Contracts and personal services

The Administrator may, for purposes of all laws administered by the Veterans' Administration, accept uncompensated services, and enter into contracts or agreements with private or public agencies or persons (including contracts for services of translators without regard to any other law), for such necessary services (including personal services [he] *the Administrator* may deem practicable. The Administrator may also enter into contracts or agreements with private concerns or public agencies for the hiring of passenger motor vehicles or aircraft for official travel whenever, in [his] *the Administrator's* judgment, such arrangements are in the interest of efficiency or economy.

* * * * * * *

§ 215. Publication of laws relating to veterans

The Administrator may compile and publish all Federal laws relating to veterans' relief, including such laws as are administered by the Veterans' Administration as well as by other agencies of the Government, in such form as [he] *the Administrator* deems advisable for the purpose of making currently available in convenient form for the use of the Veterans' Administration and full-time rep-

resentatives of the several service organizations an annotated, indexed, and cross-referenced statement of the laws providing veterans' relief. The Administrator may maintain such compilation on a current basis either by the publication, from time to time, of supplementary documents or by complete revision of the compilation. The distribution of the compilation to the representatives of the several service organizations shall be as determined by the Administrator.

* * * * * * *

§ 217. Studies of rehabilitation of disabled persons

(a) * * *

(b) In carrying out this section the Administrator may cooperate with such public and private agencies as [he] *the Administrator* may deem advisable, and may employ consultants who shall receive a reasonable per diem, as prescribed by the Administrator, for each day actually employed, plus necessary travel and other expenses.

* * * * * * *

§ 219. Evaluation and data collection

(a) The Administrator, pursuant to general standards which [he] *the Administrator* shall prescribe in regulations, shall measure and evaluate on a continuing basis the impact of all programs authorized under this title, in order to determine their effectiveness in achieving stated goals in general, and in achieving such goals in relation to their cost, their impact on related programs, and their structure and mechanisms for delivery of services. Such information as the Administrator may deem necessary for purposes of such evaluations shall be made available to [him] *the Administrator,* upon request, by all departments, agencies, and instrumentalities of the executive branch.

* * * * * * *

Subchapter III—Veterans' Administration Regional Offices; Employees

§ 230. Central and regional offices

(a) The Central Office of the Veterans' Administration shall be in the District of Columbia. The Administrator may establish such regional offices and such other field offices within the United States, its Territories, Commonwealths, and possessions, as [he] *the Administrator* deems necessary.

* * * * * * *

§ 233. Employees' apparel; school transportation; recreational equipment; visual exhibits; personal property; emergency transportation of employees

(a) The Administrator, subject to such limitations as [he] *the Administrator* may prescribe, may—

(1) furnish and launder such wearing apparel as may be prescribed for employees in the performance of their official duties;

(2) transport children of Veterans' Administration employees located at isolated stations to and from school in available Government-owned automotive equipment;

(3) provide recreational facilities, supplies, and equipment for the use of patients in hospitals, and employees in isolated installations;

(4) provide for the preparation, shipment, installation, and display of exhibits, photographic displays, moving pictures and other visual educational information and descriptive material; and

(5) reimburse employees for the cost of repairing or replacing their personal property damaged or destroyed by patients or domiciliary members while such employees are engaged in the performance of their official duties.

For the purposes of subparagraph (4), the Administrator may purchase or rent equipment.

(b) The Administrator, [when he determines] *upon determining* that an emergency situation exists and that such action is necessary for the effective conduct of the affairs of the Veterans' Administration, may utilize Government-owned, or leased, vehicles to transport employees to and from their place of employment and the nearest adequate public transportation, or, if such public transportation is either unavailable or not feasible to use, to and from their place of employment and their home. The Administration shall establish reasonable rates to cover the cost of the service rendered, and all proceeds collected therefrom shall be applied to the applicable appropriation.

* * * * * * *

§ 235. Benefits to employees at overseas offices who are United States citizens

(a) The Administrator may, under such rules and regulations as may be prescribed by the President or [his] *the President's* designee, provide to personnel of the Veterans' Administration who are United States citizens and are assigned by the Administrator to the Veterans' Administration offices in the Republic of the Philippines allowances and benefits similar to those provided by the following provisions of law:

(1) Section 905 of the Foreign Service Act of 1980 (relating to allowances to provide for the proper representation of the United States).

(2) Sections 901 (1), (2), (3), (4), (7), (8), (9), (11), and (12) of the Foreign Service Act of 1980 (relating to travel expenses).

(3) Section 901(13) of the Foreign Service Act of 1980 (relating to transportation of automobiles).

(4) Section 903 of the Foreign Service Act of 1980 (relating to the return *of personnel* to the United States on leave of absence).

(5) Section 904(d) of the Foreign *Service* Act of 1980 (relating to payments by the United States of expenses for treating illness or

injury of officers or employees and dependents requiring hospitalization).

(6) Section 5724a(a)(3) of title 5 (relating to subsistence expenses for 30 days in connection with the return to the United States of the employee and such employee's immediate family).

(7) Section 5724a(a)(4) of title 5 (relating to the sale and purchase of the residence or settlement of an unexpired lease of the employee when transferred from one station to another station and both stations are in the United States, its territories or possessions, or the Commonwealth of Puerto Rico).

The [foregoing] authority *in subsection (a) of this section* supplements, but is not in lieu of, other allowances and benefits for overseas employees of the Veterans' Administration provided by [titles 5 and 22] *title 5 and the Foreign Service Act of 1980 (22 U.S.C. 3901 et seq.)*

§ 236. Administrative settlement of tort claims arising in foreign countries

The Administrator may pay tort claims, in the manner authorized in the first paragraph of section 2672 of title 28, when such claims arise in foreign countries in connection with Veterans' Administration operations abroad. A claim may not be allowed under this section unless it is presented in writing to the Administrator or [his] *the Administrator's* designee within two years after the claim accrues.

Subchapter IV—Veterans Outreach Services Program

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§ 241. Outreach services

The Administrator shall provide the following outreach services in carrying out the purposes of this subchapter (including the provision, to the maximum feasible extent, of such services, in areas where a significant number of eligible veterans and eligible dependents speak a language other than English as their principal language, in the principal language of such persons):

(1) by letter advise each veteran at the time of [his] *the veteran's* discharge or release from active military, naval, or air service, or as soon as possible thereafter, of all benefits and services under laws administered by the Veterans' Administration for which the veteran may be eligible and, in carrying out this paragraph, the Administrator shall insure, through the utilization of veteran-student services under section 1685 of this title, that contact, in person or by telephone, is made with those veterans who, on the basis of their military service records, do not have a high school education or equivalent at the time of discharge or release;

(2) distribute full information to eligible veterans and eligible dependents regarding all benefits and services to which they may be entitled under laws administered by the Veterans' Administration and may, to the extent feasible, distribute information on other governmental programs (including man-

power and training programs) which [he] *the Administrator* determines would be beneficial to veterans; and

* * * * * * *

§ 242. Veterans assistance offices

(a) The Administrator shall establish and maintain veterans assistance offices at such places throughout the United States and its territories and possessions, and the Commonwealth of Puerto Rico, as [he] *the Administrator* determines to be necessary to carry out the purposes of this subchapter, with due regard for the geographical distribution of veterans recently discharged or released from active military, naval, or air service, the special needs of educationally disadvantaged veterans (including their need for accessibility of outreach services), and the necessity of providing appropriate outreach services in less populated areas.

* * * * * * *

§ 244. Utilization of other agencies

In carrying out the purposes of this subchapter, the Administrator shall—

(1) * * *

* * * * * * *

(5) at [his] *the Administrator's* discretion, furnish available space and office facilities for the use of authorized representatives of such governmental unit or other organization providing services; and

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CHAPTER 17—HOSPITAL, NURSING HOME, DOMICILIARY, AND MEDICAL CARE

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Subchapter I—General

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§ 602. Presumption relating to psychosis

For the purposes of this chapter, any veteran of World War II, the Korean conflict, or the Vietnam era who developed an active psychosis (1) within two years after [his] discharge or release from the active military, naval or air service, and (2) before July 26, 1949, in the case of a veteran of World War II, before February 1, 1957, in the case of a veteran of the Korean conflict, or before May 8, 1977, in the case of a Vietnam era veteran, shall be deemed to have incurred such disability in the active military, naval, or air service.

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CHAPTER 19—INSURANCE

* * * * * * *

Subchapter I—National Service Life Insurance

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§ 704. Plans of insurance

(a) * * *

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(d) Any insured whose modified life insurance policy is in force by payment or waiver of premiums on the day before [his] *the insured's* sixty-fifth birthday may upon written application and payment of premiums made before such birthday be granted National Service Life Insurance, on an ordinary life plan, without physical examination, in an amount of not less than $500, in multiples of $250, but not in excess of one-half of the face amount of the modified life insurance policy in force on the day before [his] *the insured's* sixty-fifth birthday. Insurance issued under this subsection shall be effective on the sixty-fifth birthday of the insured. The premium rate, cash, loan, paid-up, and extended values on the ordinary life insurance issued under this subsection shall be based on the same mortality tables and interest rates as the insurance issued under the modified life policy. Settlements on policies involving annuities on insurance issued under this subsection shall be based on the same mortality or annuity tables and interest rates as such settlements on the modified life policy. If the insured is totally disabled on the day before [his] *the insured's* sixty-fifth birthday and premiums on [his] *the insured's* modified life insurance policy are being waived under section 712 of this title or [he] *the insured* is entitled on that date to waiver under such section [he] *the insured* shall be automatically granted the maximum amount of insurance authorized under this subsection and premiums on such insurance shall be waived during the continuous total disability of the insured.

(e) After June 30, 1972, and under such regulations as the Administrator may promulgate, insurance may be converted to or exchanged for insurance on a modified life plan under the same terms and conditions as are set forth in subsections (b) and (c) of this section exepct that at the end of the day preceding the seventieth birthday of the insured the face value of the modified life insurance policy or the amount of extended insurance thereunder shall be automatically reduced by one-half thereof, without any reduction in premium. Any insured whose modified life insurance policy issued under this subsection is in force by payment or waiver of premiums on the day before [his] *the insured's* seventieth birthday may be granted insurance on the ordinary life plan upon the same terms and conditions as are set forth in subsection (d) of this section expect that in applying such provisons the seventieth birthday is to be substituted for the sixty-fifth birthday. Notwithstanding any other provision of law or regulations the Administrator under such terms and conditions as [he] *the Administrator* determines to be reasonable and practicable and upon written application and payment of the required premiums, reserves, or other necessary amounts made within one year from the effective date of this subsection by an insured having in force a modified life

plan issued under subsection (b) or (c) of this section, including any replacement insurance issued under subsection (d) of this section or other provision of this title, can exchange such insurance without proof of good health for an amount of insurance issued under this subsection equal to the insurance then in force or which was in force on the day before such insured's sixty-fifth birthday, whichever is the greater.

§ 705. Renewal

All level premium term policies, except as otherwise provided in this section, shall cease and terminate at the expiration of the term period. At the expiration of any term period any five-year level premium term policy which has not been exchanged or converted to a permanent plan of insurance and which is not lapsed shall be renewed as level premium term insurance without application for a successive five-year period at the premium rate for the attained age without medical examination. However, renewal will be affected in cases where the policy is lapsed only if the insured makes application for reinstatement and renewal of [his] *the* term policy within five years after the date of lapse, and reinstatement in such cases shall be under the terms and conditions prescribed by the Administrator. In any case in which the insured is shown by evidence satisfactory to the Administrator to be totally disabled at the expiration of the level premium term period of this insurance under conditions which would entitle [him] *the insured* to continued insurance protection but for such expiration, [his] *the* insurance, if subject to renewal under this section, shall be automatically renewed for an additional period of five years at the premium rate for the then attained age, unless the insured has elected insurance on some other available plan.

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§ 707. Payment or use of dividends

(a) Until and unless the Veterans' Administration has received from the insured a request or directive in writing exercising any other dividend option allowable under [his] *the insured's* policy, any dividend accumulations and unpaid dividends shall be applied in payment of premiums becoming due on insurance subsequent to the date the dividend is payable after January 1, 1952.

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(c) The Administrator, upon application in writing made by the insured for insurance under this subsection, and without proof of good health, is authorized to apply any dividend due and payable on national service life insurance after the date of such application to purchase paid up insurance. Also, the Administrator, upon application in writing made by the insured before February 1, 1973, and without proof of good health, is authorized to apply any national service life insurance dividend credits and deposits of such insured existing at the date of [his] *the insured's* application to purchase paid up insurance. Any dividends, dividend credits, or deposits on endowment policies may be used under this subsection only to purchase additional paid up endowment insurance which matures con-

currently with the basic policy. Any dividends, dividend credits, or deposits on policies (other than endowment policies) may be used under this section only to purchase additional paid up whole life insurance. The paid up insurance granted under this subsection shall be in addition to any insurance otherwise authorized under this title, or under prior provisions of law. The paid up insurance granted under this subsection shall be issued on the same terms and conditions as are contained in the standard policies of national service life insurance except (1) the premium rates for such insurance and all cash and loan values thereon shall be based on such table of mortality and rate of interest per annum as may be prescribed by the Administrator; (2) the total disability income provision authorized under section 715 of this title may not be added to insurance issued under this section; and (3) the insurance shall include such other changes in terms and conditions as the Administrator determines to be reasonable and practicable.

§ 708. Premium payments

The Administrator shall, by regulations, prescribe the time and method of payment of the premiums on insurance, but payments of premiums in advance shall not be required for periods of more than one month each, and may at the election of the insured be deducted from **[**his**]** *the insured's* active-service pay or be otherwise made. An amount equal to the first premium due under a National Service Life Insurance policy may be advanced from current appropriations for active-service pay to any person in the active service in the Army, Navy, Air Force, Marine Corps, or Coast Guard, which amount shall constitute a lien upon any service or other pay accruing to the person for whom such advance was made and shall be collected therefrom if not otherwise paid. No disbursing or certifying officer shall be responsible for any loss incurred by reason of such advance. Any amount so advanced in excess of available service or other pay shall constitute a lien on the policy within the provisions of section 3101(b) of this title.

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§ 712. Total disability waiver

(a) Upon application by the insured and under such regulations as the Administrator may promulgate, payment of premiums on insurance may be waived during the continuous total disability of the insured, which continues or has continued for six or more consecutive months, if such disability began (1) after the date of his application for insurance, (2) while the insurance was in force under premium-paying condition, and (3) before the insured sixty-fifth birthday. Notwithstanding any other provision of this chapter, in any case in which the total disability of the insured commenced on or after **[**his**]** *the insured's* sixtieth birthday but before **[**his**]** *the insured's* sixty-fifth birthday, the Administrator shall not grant waiver of any premium becoming due prior to January 1, 1965.

(b) The Administrator, upon any application made after August 1, 1947, shall not grant waiver of any premium becoming due more than one year before the receipt in the Veterans' Administration of application for the same, except as provided in this section. Any

premiums paid for months during which waiver is effective shall be refunded. The Administrator shall provide by regulations for examination or reexamination of an insured claiming benefits under this section, and may deny benefits for failure to cooperate. If it is found that an insured is no longer totally disabled, the waiver of premiums shall cease as of the date of such finding and the policy of insurance may be continued by payment of premiums as provided in said policy. In any case in which the Administrator finds that the insured's failure to make timely application for waiver of premiums or [his] *the insured's* failure to submit satisfactory evidence of the existence or continuance of total disability was due to circumstances beyond [his] *the insured's* control, the Administrator may grant waiver or continuance of waiver of premiums.

(c) If the insured dies without filing application for waiver, the beneficiary, within one year after the death of the insured, or, if the beneficiary is insane or a minor, within one year after removal of such legal disability, may file application for waiver with evidence of the insured's right to waiver under this section. Premium rates shall be calculated without charge for the cost of waiver of premiums provided in this section and no deduction from benefits otherwise payable shall be made on account thereof.

(d) In any case in which an insured has been denied or would have been denied premium waiver under section 602(n) of the National Service Life Insurance Act of 1940 or this section solely because [he] *the insured* became totally disabled between the date of valid application for insurance and the subsequent effective date thereof, and in which it is shown that (1) the total disability was incurred in line of duty between October 8, 1940, and July 31, 1946, inclusive, or June 27, 1950, and April 30, 1951, inclusive, and (2) the insured remained continuously so totally disabled to the date of death or June 8, 1960, whichever is earlier, the Administrator may grant waiver of premiums from the beginning of and during the continuous total disability of such insured. Application for waiver of premiums under this subsection must be filed by the insured or, in the event of [his] *the insured's* death, by the beneficiary within two years after the date of enactment of this subsection, except that if the insured or the beneficiary be insane or a minor within the two-year period, application for such waiver may be filed within two years after removal of such legal disability, or if an insane insured shall die before the removal of the disability, application may be filed by the beneficiary within two years after the insured's death. No insurance shall be placed in force under this subsection in any case in which there was an award of benefits under the Servicemen's Indemnity Act of 1951 or of gratuitous insurance under section 722(b) of this title. The amount of insurance placed in force hereunder together with any other United States Government life insurance or national service life insurance in force at the time of death, or at the time of the insured's application for waiver hereunder, may not exceed $10,000 and shall be reduced by the amount of any gratuitous insurance awarded under the National Service Life Insurance Act of 1940. Waiver of premiums under this subsection shall render the insurance nonparticipating during the period such premium waiver is in effect. The cost

of waiver of premium and death benefits paid as a result of this subsection shall be borne by the United States.

§ 713. Death before six months' total disability

Whenever premiums are not waived under section 712 of this title solely because the insured died prior to the continuance of total disability for six months, and proof of such facts, satisfactory to the Administrator, is filed by the beneficiary with the Veterans' Administration within one year after the insured's death, [his] *the* insurance shall be deemed to be in force at the date of [his] *the* death, and the unpaid premiums shall become a lien against the proceeds of [his] *the* insurance. If the beneficiary is insane or a minor, proof of such facts may be filed within one year after removal of such legal disability.

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§ 716. Insurance which matured before August 1, 1946

(a) * * *

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(e) No installments of insurance which matured before August 1, 1946, shall be paid to the heirs or legal representatives as such of the insured or of any beneficiary, and if no person within the permitted class survives to receive the insurance or any part thereof no payment of the unpaid installments shall be made, except that if the reserve of a contract of converted National Service Life Insurance, together with dividends accumulated thereon, less any indebtedness under such contract, exceeds the aggregate amount paid to beneficiaries, the excess shall be paid to the estate of the insured unless the estate of the insured would escheat under the laws of [his] *the insured's* place of residence, in which event no payment shall be made. When the amount of an individual monthly payment of such insurance is less than $5, such amount may, in the discretion of the Administrator, be allowed to accumulate without interest and be disbursed annually.

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§ 725. Limited period for acquiring insurance

(a) Any person (other than a person referred to in subsection (f) of this section) heretofore eligible to apply for National Service Life Insurance after October 7, 1940, and before January 1, 1957, who is found by the Administrator to be suffering (1) from a service-connected disability or disabilities for which compensation would be payable if 10 percent or more in degree and except for which such person would be insurable according to the standards of good health established by the Administrator; or (2) from a non-service-connected disability which renders such person uninsurable according to the standards of good health established by the Administrator and such person establishes to the satisfaction of the Administrator that [he] *such person* is unable to obtain commercial life insurance at a substandard rate, shall, upon application in writing made before May 2, 1966, compliance with the health requirements

of this section and payment of the required premiums, be granted insurance under this section.

(b) If, notwithstanding the applicant's service-connected disability, [he] *such person* is insurable according to the standards of good health established by the Administrator, the insurance granted under this section shall be issued upon the same terms and conditions as are contained in the standard policies of National Service Life Insurance except (1) five-year level premium term insurance may not be issued; (2) the net premium rates shall be based on the 1958 Commissioners Standard Ordinary Basic Mortality Table, increased at the time of issue by such an amount as the Administrator determines to be necessary for sound actuarial operations, and thereafter such premiums may be adjusted as the Administrator determines to be so necessary but at intervals of not less than two years; (3) an additional premium to cover administrative costs to the Government as determined by the Administrator at times of issue shall be charged for insurance issued under this subsection and for any total disability income provision attached thereto, and thereafter such costs may be adjusted as the Administrator determines to be necessary but at intervals of not less than five years; (4) all cash, loan, extended and paid-up insurance values shall be based on the 1958 Commissioners Standard Ordinary Basic Mortality Table; (5) all settlements on policies involving annuities shall be calculated on the basis of The Annuity Table for 1949; (6) all calculations in connection with insurance issued under this subsection shall be based on interest at the rate of 3½ percent per annum; and (7) the insurance shall include such other changes in terms and conditions as the Administrator determines to be reasonable and practicable.

(c) If the applicant's service-connected disability or disabilities render [him] *the applicant* uninsurable according to the standards of good health established by the Administrator, or if the applicant has a non-service-connected disability which renders [him] *the applicant* uninsurable according to the standards of good health established by the Administrator and such person establishes to the satisfaction of the Administrator that [he] *such person* is unable to obtain commercial life insurance at a substandard rate and such uninsurability existed as of the date of approval of this section, the insurance granted under this section shall be issued upon the same terms and conditions as are contained in standard policies of National Service Life Insurance, except (1) five-year level premium term insurance may not be issued; (2) the premiums charged for the insurance issued under this subsection shall be increased at the time of issue by such an amount as the Administrator determines to be necessary for sound actuarial operations and thereafter such premiums may be adjusted from time to time as the Administrator determines to be necessary; for the purpose of any increase at time of issue or later adjustment the service-connected group and the non-service-connected group may be separately classified; (3) an additional premium to cover administrative costs to the Government as determined by the Administrator at the time of issue shall be charged for insurance issued under this subsection and for any total disability income provision attached thereto (for which the insured may subsequently become eligible)

and thereafter such costs may be adjusted as the Administrator determines to be necessary but at intervals of not less than five years and for this purpose the service-connected and non-service-connected can be separately classified; (4) all settlements on policies involving annuities shall be calculated on the basis of The Annuity Table for 1949; (5) all calculations in connection with insurance issued under this subsection shall be based on interest at the rate of 3½ percent per annum; and (6) the insurance shall include such other changes in terms and conditions as the Administrator determines to be reasonable and practicable.

(d)(1) All premiums and collections on insurance issued pursuant to this section and any total disability income provision attached thereto shall be credited to the Veterans Reopened Insurance Fund, a revolving fund established in the Treasury of the United States, and all payments on such insurance and any total disability provision attached thereto, including payments of dividends and refunds of unearned premiums, shall be made from that fund and the interest earned on the assets of that fund. For actuarial and accounting purposes, the assets and liabilities (including liabilities for repayment of advances hereinafter authorized, and adjustment of premiums) attributable to the insured groups established under this section shall be separately determined. Such amounts in the Veterans Special Term Insurance Fund in the Treasury, not exceeding $1,650,000 in the aggregate, as may hereafter be determined by the Administrator to be in excess of the actuarial liabilities of that fund, including contingency reserves, shall be available for transfer to the Veterans Reopened Insurance Fund as needed to provide initial capital. Any amounts so transferred shall be repaid to the Treasury over a reasonable period of time with interest as determined by the Secretary of the Treasury taking into consideration the average yield on all marketable interest-bearing obligations of the United States of comparable maturities then forming a part of the public debt.

(2) The Administrator is authorized to set aside out of the revolving fund established under this section such reserve amounts as may be required under accepted actuarial principles to meet all liabilities on insurance issued under this section and any total disability income provision attached thereto. The Secretary of the Treasury is authorized to invest in and to sell and retire special interest-bearing obligations of the United States for the account of the revolving fund. Such obligations issued for this purpose shall have maturities fixed with due regard for the needs of the fund and shall bear interest at a rate equal to the average market yield (computed by the Secretary of the Treasury on the basis of market quotations as of the end of the calendar month next preceding the date of issue) on all marketable interest-bearing obligations of the United States then formning a part of the public debt which are not due or callable until after the expiration of four years from the end of such calendar month; except that where such average market yield is not a multiple of one-eighth of 1 percent, the rate of interest of such obligation shall be the multiple of one-eighth of 1 percent nearest such market yield.

(3) Notwithstanding the provisions of section 782 of this title, the Administrator shall, from time to time, determine the administra-

tive costs to the Government which in [his] *the Administrator's* judgment are properly allocable to insurance issued under this section and any total disability income provision attached thereto, and shall transfer from the revolving fund, the amount of such cost allocable to the Veterans' Administration to the appropriation "General Operating Expenses, Veterans' Administration", and the remainder of such cost to the general fund receipts in the Treasury. The initial administrative costs of issuing insurance under this section and any total disability income provision attached thereto shall be so transferred over such period of time as the Administrator determines to be reasonable and practicable.

(e) Notwithstanding the provisions of section 782 of this title, a medical examination (including any supplemental examination or tests) when required of an applicant for issuance of insurance under this section or any total disability income provisions attached thereto shall be at the applicant's own expense by a duly licensed physician.

(f) No insurance shall be granted under this section to any person referred to in section 107 of this title or to any person while on active duty or active duty for training under a call or order to such duty for a period of thirty-one days or more.

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Subchapter II—United States Government Life Insurance

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§ 742. Plans of insurance

(a) * * *

(b) An insured who on or after [his] *the insured's* sixty-fifth birthday has a five-year level premium term policy of insurance in force by payment of premiums may exchange such policy for insurance on a special endowment at age ninety-six plan upon written application; payment of the required premium; and surrender of the five-year level premium term policy and any total disability provision attached thereto with all rights, title, and interests thereunder. However, if it is found by the Administrator subsequent to the exchange that prior thereto the term policy matured because of total permanent disability of the insured or that [he] *the insured* was entitled to total disability benefits under the total disability provision attached to such policy, the insured, upon surrender of the special endowment at age ninety-six policy and any provision for waiver of premiums issued under subsection (c) of this section with all rights, title, and interest thereunder, will be entitled to benefits payable under the prior contract. In such case, the cash value less any indebtedness on the endowment policy shall be refunded together with any premiums paid on a provision for waiver of premiums. Insurance on the special endowment at age ninety-six plan shall be issued at the attained age of the insured upon the same terms and conditions as are contained in standard policies of United States Government Life Insurance except:

(1) the insurance shall not mature and no benefits shall be paid thereunder because of total permanent disability;

(2) the premiums for such insurance shall be as prescribed by the Administrator;

(3) such insurance cannot be exchanged, converted, or reconverted to any other plan of insurance;

(4) all cash, loan, paid-up, and extended term insurance values shall be as prescribed by the Administrator; and

(5) the insurance shall be subject to such other changes in terms and conditions as the Administrator determines to be reasonable and practicable.

(c) The Administrator shall, upon application made by the insured at the same time as [he] *the insured* exchanges [his] *the* term policy for an endowment policy issued under the provisions of subsection (b) of this section, and upon payment of such extra premium as the Administrator shall prescribe, include in such endowment policy a provision for waiver of premiums on the policy and on the provision during the total permanent disability of the insured, if such disability began after the date of such application and while the policy and the provision are in force by payment of premiums. The Administrator shall not grant waiver of any premium becoming due more than one year before receipt in the Veterans' Administration of claim for the same, except as provided in this subsection. Any premiums paid for months during which waiver is effective shall be refunded. The Administrator shall provide by regulations for examination or reexamination of an insured claiming waiver of premiums under this subsection, and may deny waiver for failure to cooperate. If it is found that an insured is no longer totally and permanently disabled, the waiver of premiums shall cease as of the date of such finding and the policy and provision may be continued by payment of premiums as provided therein. In any case in which the Administrator finds that the insured's failure to make timely claim for waiver of premiums, or [his failure] to submit satisfactory evidence of the existence or continuance of total permanent disability was due to circumstances beyond [his] *the insured's* control, the Administrator may grant waiver or continuance of waiver of premiums. If the insured dies without filing claim of waiver, the beneficiary, within one year after the death of the insured, or if the beneficiary is insane or a minor, within one year after removal of such legal disability, may file claim for waiver with evidence of the insured's right to waiver under this subsection. Policies containing a provision for waiver of premiums issued under this subsection may be separately classified for the purpose of dividend distribution from otherwise similar policies not containing such provision.

§ 743. Premiums

The premium rates for insurance shall be the net rates based upon the American Experience Table of Mortality and interest at 3½ percent per annum. Regulations shall prescribe the time and method of payment of premiums, but payments of premiums in advance shall not be required for periods of more than one month each, and may be deducted from the pay or deposit of the insured or be otherwise made at [his] *the insured's* election.

§ 744. Policy provisions

(a) * * *

(b) All calculations on insurance shall be based upon the American Experience Table of Mortality and interest at 3½ percent per annum, except that no deduction shall be made for continuous installments during the life of the insured in case [his] *the insured's* total and permanent disability continues more than two hundred and forty months.

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§ 745. Renewal

At the expiration of any term period any insurance policy issued on the five-year level premium term plan which has not been exchanged or converted to a permanent plan of insurance and which is not lapsed shall be renewed as level premium term insurance without application for a successive five-year period at the premium rate for the attained age without medical examination. However, renewal shall be effected in cases where the policy is lapsed only if the insured makes application for reinstatement and renewal of [his] *the insured's* term policy within five years after the date of lapse, and reinstatement in such cases shall be under the terms and conditions prescribed by the Administrator.

§ 746. Dividends to pay premiums

Until and unless the Veterans' Administration has received from the insured a request in writing for payment of dividends in cash or that the dividends be placed on deposit in accordance with the provisions of [his] *the insured's* policy, any regular annual dividends shall be applied in payment of premiums becoming due on insurance after the date the dividend is payable on or after December 31, 1958.

§ 747. Incontestability

Subject to the provisions of section 754 of this title all contracts or policies of insurance heretofore or hereafter issued, reinstated, or converted shall be incontestable from the date of issuance, reinstatement, or conversion, except for fraud, nonpayment of premiums, or on the ground that the applicant was not a member of the military or naval forces of the United States. The insured under such contract or policy may, without prejudicing [his] *the insured's* rights, elect to make claim to the Veterans' Administration or to bring suit under section 784 of this title on any prior contract or policy, and if found entitled thereto, shall, upon surrender of any subsequent contract or policy, be entitled to payments under the prior contract or policy. In any case in which a contract or policy of insurance is canceled or voided after March 16, 1954, because of fraud, the Administrator shall refund to the insured, if living, or, if deceased, to the person designated as beneficiary (or if none survives, to the estate of the insured) all money, without interest, paid as premiums on such contract or policy for any period subsequent to two years after the date such fraud induced the Veterans' Administration to issue, reinstate, or convert such insurance

less any dividends, loan, or other payment made to the insured under such contract or policy.

§ 748. Total disability provision

The Administrator shall include in United States Government life insurance policies provision whereby an insured, who is totally disabled as a result of disease or injury for a period of four consecutive months or more before attaining the age opf sixty-five years and before default in payment of any premium, shall be paid disability benefits at the rate of $5.75 monthly for each $1,000 of insurance in force when total disability benefits become payable. The amount of such monthly payment under the provisions of this section shall not be reduced because of payment of permanent and total disability benefits under the insurance policy. Such payments shall be effective as of the first day of the fifth consecutive month, and shall be made monthly during the continuance of such total disability. Such payments shall be concurrent with or independent of permanent and total disability benefits under the insurance policy. In addition to the monthly disability benefits the payment of premiums on the life insurance and for the total disability benefits authorized by this section shall be waived during the continuance of such total disability. Regulations shall provide for reexaminations of beneficiaries under this section; and, in the event that it is found that an insured is no longer totally disabled, the waiver of premiums and payment of benefits shall cease and the insurance policy, including the total disability provision, may be continued by payment of premiums as provided in said policy and the total disability provision. Neither the dividends nor the amount payable in any settlement under any United States Government life insurance policy shall be decreased because of disability benefits granted under the provisions of this section. The payment of total disability benefits shall not prejudice the right of any insured, who is totally and permanent disabled, to permanent and total disability benefits under [his] *the insured's* insurance policy. The provision authorized by this section shall not be included in any United States Government life insurance policy heretofore or hereafter issued, except upon application, payment of premium by the insured, and proof of good health satisfactory to the Administrator. The benefit granted under this section shall be on the basis of multiples of $500, and not less than $1,000 or more than the amount of insurance in force at time of application. The Administrator shall determine the amount of the monthly premium to cover the benefits of this section, and in order to continue such benefits in force the monthly premiums shall be payable until the insured attains the age of sixty-five years or until the prior maturity of the policy. In all other respects such monthly premium shall be payable under the same terms and conditions as the regular monthly premium on the United States Government life insurance policy.

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§ 750. Payment to estates

If no beneficiary of insurance is designated by the insured, either [in his lifetime or by his last will and testament,] *while alive or*

by last will, or if the designated beneficiary does not survive the insured, then there shall be paid to the estate of the insured the present value of the remaining unpaid monthly installments. If the designated beneficiary survives the insured and dies before receiving all of the installments of insurance payable and applicable, then there shall be paid to the estate of such beneficiary the present value of the remaining unpaid monthly installments. No payments shall be made to any estate which under the laws of the residence of the insured or the beneficiary, as the case may be, would escheat, but same shall escheat to the United States and be credited to the United States Government Life Insurance Fund.

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§ 752. Optional settlement

(a) The Administrator may provide in insurance contracts for optional settlements, to be selected by the insured, whereby such insurance may be made payable either in one sum or in installments for thirty-six months or more. A provision may also be included in such contracts authorizing the beneficiary to elect to receive payment of the insurance in installments for thirty-six months or more, but only if the insured has not exercised [his] *the* right of election as provided in this subchapter. Even though the insured may have exercised [his] *the* right of election the beneficiary may elect to receive such insurance in installments spread over a greater period of time than that selected by the insured. Notwithstanding any provision to the contrary in any insurance contract, the beneficiary may, in the case of insurance maturing after September 30, 1981, and for which the insured has not exercised the right of election of the insured as provided in this subchapter, elect to receive payment of the insurance in one sum.

(b) Under such regulations as the Administrator may promulgate, the cash surrender value of any policy of insurance or the proceeds of an endowment contract which matures by reason of completion of the endowment period may be paid to the insured (1) in equal monthly installments of from thirty-six to two hundred and forty in number, in multiples of twelve; or (2) as a refund life income in monthly installments payable for such periods certain as may be required in order that the sum of the installments certain, including a last installment of such reduced amount as may be necessary, shall equal the cash value of the contract, less any indebtedness, with such payments continuing throughout the lifetime of the insured. However, all settlements under option (2) above shall be calculated on the basis of The Annuity Table for 1949. If the option selected requires payment of monthly installments of less than $10, the amount payable shall be paid in such maximum number of monthly installments as are a multiple of twelve as will provide a monthly installment of not less than $10.

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§ 759. Waiver of disability for reinstatement

(a) In the event that all provisions of the rules and regulations other than the requirements as to the physical condition of the ap-

plicant have been complied with, an application for reinstatement, in whole or in part, of lapsed United States Government life insurance may be approved if made within two years after the date of lapse and if the applicant's disability is the result of an injury or disease, or of an aggravation thereof, suffered or contracted in the active military or naval service during the period beginning April 6, 1917, and ending July 2, 1921, and the applicant during [his] *the applicant's* lifetime submits proof satisfactory to the Administrator showing that [he] *the applicant* is not totally and permanently disabled. As a condition to the acceptance of an application for reinstatement under this section, the applicant shall be required to pay all the back monthly premiums which would have become payable if such insurance had not lapsed, together with interest at the rate of 5 per centum per annum, compounded annually, on each premium from the date said premium is due by the terms of the policy.

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§ 760. Waiver of premium payments on due date

(a) The Administrator is authorized to provide by regulations for waiving the payment of premiums on United States Government life insurance on the due date thereof and the insurance may be deemed not to lapse in the cases of the following persons: (1) those who are confined in hospital under the Veterans' Administration for a compensable disability during the period while they are so confined; (2) those who are rated as temporarily totally disabled by reason of any injury or disease entitling them to compensation during the period of such total disability and while they are so rated; (3) those who, while mentally incompetent and for whom no legal guardian had been or has been appointed, allowed or may allow their insurance to lapse during the period for which they have been or hereafter may be rated mentally incompetent, or until a guardian has notified the Veterans' Administration of [his] *the guardian's* qualification, but not later than six months after appointment of a guardian. In mentally incompetent cases the waiver is to be made without application and retroactive when necessary. Relief from payment of premiums on the due date thereof shall be for full calendar months, beginning with the month in which said confinement to hospital, the temporary total disability rating, or the mental incompetency began or begins and ending with that month during the half or major fraction of which such persons are no longer entitled to waiver as provided above.

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Subchapter III—Servicemen's Group Life Insurance

§ 765. Definitions

For the purpose of this subchapter—

(1) * * *

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(5) The term "member" means—

(A) * * *

(B) a person who volunteers for assignment to the Ready Reserve of a uniformed service and is assigned to a unit or position in which [he] *such person* may be required to perform active duty, or active duty for training, and each year will be scheduled to perform at least twelve periods of inactive duty training that is creditable for retirement purposes under chapter 67 of title 10;

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(9) The term "parent" means a father of a legitimate child, mother of a legitimate child, father through adoption, mother through adoption, mother of an illegitimate child, and father of an illegitimate child but only if (a) he acknowledged paternity of the child in writing signed by him before the child's death; or (b) he has been judicially ordered to contribute to the child's support; or (c) he has been judicially decreed to be father of such child; or (b) proof of paternity is established by a certified copy of the public record of birth or church record of baptism showing that the claimant was the informant and was named as father of the child; or (e) proof of paternity is established from service department or other public records, such as school or welfare agencies, which show that with his knowledge the claimant was named as father of the child. No person who abandoned or willfully failed to support a child during [his] *the child's* minority, or consented to [his] *the child's* adoption may be recognized as a parent for the purpose of this subchapter. However, the immediately preceding sentence shall not be applied so as to require duplicate payments in any case in which insurance benefits have been paid prior to receipt in the administrative office established under subsection 766(b) of this title of sufficient evidence to clearly establish that the person so paid could not qualify as a parent solely by reason of such sentence.

§ 766. Eligible insurance companies

(a) * * *

* * * * * * *

(c) The Administrator shall arrange with the life insurance company or companies issuing any policy or policies under this subchapter to reinsure, under conditions approved by [him] *the Administrator,* portions of the total amount of insurance under such policy or policies with such other life insurance companies (which meet qualifying criteria set forth by the Administrator) as may elect to participate in such reinsurance.

(d) The Administrator may at any time discontinue any policy or policies which [he] *the Administrator* has purchased from any insurance company under this subchapter.

§ 767. Persons insured; amount

(a) * * *

* * * * * * *

(b) Any member (other than one who has elected not to be insured under this subchapter for the period or periods of duty involved—

(1) who, when authorized or required by completent authority, assumes an obligation to perform (for less than thirty-one days) active duty, or active duty for training, or inactive duty training scheduled in advance by competent authority; and

(2) who is rendered uninsurable at standard premium rates according to the good health standards approved by the Administrator, or dies within one hundred and twenty days thereafter, from a disability, or aggravation of a preexisting disability, incurred by [him] *such member* while proceeding directly to or returning directly from such active duty, active duty for training, or inactive duty training as the case may be;

shall be deemed to have been on active duty, active duty for training, or inactive duty training, as the case may be, and to have been insured under this subchapter at the time such disability was incurred or aggravated, and if death occurs within one hundred and twenty days thereafter as a result of such disability to have been insured at the time of death. In determining whether or not such individual was so authorized or required to perform such duty, and whether or not [he] *such member* was rendered uninsurable or died within one hundred and twenty days thereafter from a disability so incurred or aggravated, there shall be taken into account the call or order to duty, the orders and authorizations of competent authority, the hour on which the member began to so proceed or to return, the hour on which [he] *such member* was scheduled to arrive for, or on which [he] *such member* ceased to perform such duty; the method of travel employed; [his] *such member's* itinerary; the manner in which the travel was performed; and the immediate cause of disability or death. Whenever any claim is filed alleging that the claimant is entitled to benefits by reason of this subsection, the burden of proof shall be on the claimant.

(c) If any member elects not to be insured under this subchapter or to be insured in the amount of $30,000, $25,000, $20,000, $15,000, $10,000, or $5,000, [he] *such member* may thereafter be insured under this subchapter or insured in the amount of $35,000, $30,000, $25,000 $20,000, $15,000, or $10,000 under this subchapter, as the case may be, upon written application, proof of good health, and compliance with such other terms and conditions as may be prescribed by the Administrator. Any former member insured under Veterans' Group Life Insurance who again becomes eligible for Servicemen's Group Life Insurance and declines such coverage solely for the purpose of maintaining [his] *such member's* Veterans' Group Life Insurance in effect shall upon termination of coverage under Veterans' Group Life Insurance be automatically insured under Servicemen's Group Life Insurance, if otherwise eligible therefor.

* * * * * * *

§ 768. Duration and termination of coverage; conversion

(a) * * *

* * * * * * *

(2) with respect to a member on active duty or active duty for training under a call or order to duty that specifies a period of less than thirty-one days insurance under this subchapter shall cease at midnight, local time, on the last day of such duty, unless on such date the insured is suffering from a disability incurred or aggravated during such period which, within one hundred and twenty days after such date, (i) results in [his] death, or (ii) renders [him] *the member* uninsurable at standard premium rates according to the good health standards approved by the Administrator, in which event the insurance shall continue in force to death, or for one hundred and twenty days after such date, whichever is the earlier date.

(3) with respect to a member on inactive duty training scheduled in advance by competent authority insurance under this subchapter shall cease at the end of such scheduled training period, unless at such time the insured is suffering from a disability incurred, or aggravated during such period which, within one hundred and twenty days after the date of such training, (i) results in [his] death, or (ii) renders [him] *the member* uninsurable at standard premium rates according to the good health standards approved by the Administrator in which event the insurance shall continue in force to death, or for one hundred and twenty days after the date such training terminated, whichever is the earlier date.

* * * * * * *

(b) Each policy purchased under this subchapter shall contain a provision, in terms approved by the Administrator, that, except as hereinafter provided, Servicemen's Group Life Insurance which is continued in force after expiration of the period of duty or travel under section 767(b) or 768(a) of this title, effective the day after the date such insurance would cease, shall be automatically converted to Veterans' Group Life Insurance subject to (1) the timely payment of the initial premium under terms prescribed by the Administrator, and (2) the terms and conditions set forth in section 777 of this title. Such automatic conversion shall be effective only in the case of an otherwise eligible member or former member who is separated or released from a period of active duty or active duty for training or inactive duty training on or after the date on which the Veterans' Group Life Insurance program (provided for under section 777 of this title) becomes effective. Servicemen's Group Life Insurance continued in force under section 768(a)(4)(B) or (5) of this title shall not be converted to Veterans' Group Life Insurance. However, a member whose insurance could be continued in force under section 768(a)(4)(B) of this title, but is not so continued, may, effective the day after [his] *the* insurance otherwise would cease, convert such insurance to an individual policy under the terms and conditions set forth in section 777(e) of this title.

§ 769. Deductions; payment; investment; expenses

(a)(1) During any period in which a member, on active duty or active duty for training under a call or order to such duty that does not specify a period of less than thirty-one days, is insured under Servicemen's Group Life Insurance, there shall be deducted each month from [his] *the member's* basic or other pay until separation or release from such duty an amount determined by the Administrator (which shall be the same for all such members) as the share of the cost attributable to insuring such member under such policy, less any costs traceable to the extra hazard of such duty in the uniformed service.

* * * * * * *

(3) During any fiscal year, or portion thereof, that a member is on active duty or active duty for training under a call or order to such duty that specifies a period of less than thirty-one days, or is authorized or required to perform inactive duty training scheduled in advance by competent authority, and is insured under Servicemen's Group Life Insurance, the Secretary concerned shall collect from [him] *the member* (by deduction from pay or otherwise) an amount determined by the Administrator (which shall be the same for all such members) as the share of the cost attributable to insuring such member under such policy, less any costs traceable to the extra hazard of such duty in the uniformed service.

(4) Any amount not deducted from the basic or other pay of a member insured under Servicemen's Group Life Insurance, or collected from [him] *the member* by the Secretary concerned, if not otherwise paid, shall be deducted from the proceeds of any insurance thereafter payable. The initial monthly amount under paragraph (1) or (2) hereof, or fiscal year amount under paragraph (3) hereof, determined by the Administrator to be charged under this section for Servicemen's Group Life Insurance may be continued from year to year, except that the Administrator may redetermine such monthly or fiscal year amounts from time to time in accordance with experience. No refunds will be made to any member of any amount properly deducted from [his] *the member's* basic or other pay, or collected from [him] *the member* by the Secretary concerned, to cover the insurance granted under Servicemen's Group Life Insurance.

(b) For each month for which any member is so insured, there shall be contributed from the appropriation made for active duty pay of the uniformed service concerned an amount determined by the administrator and certified to the Secretary concerned to be the cost of Servicemen's Group Life Insurance which is traceable to the extra hazard of duty in the uniformed services. Effective January 1, 1970, such cost shall be determined by the Administrator on the basis of the excess mortality incurred by members and former members of the uniformed services insured under Servicemen's Group Life Insurance above what their mortality would have been under peacetime conditions as such mortality is determined by the Administrator using such methods and data as [he] *the Administrator* shall determine to be reasonable and practicable. The Administrator is authorized to make such adjustments regarding con-

tributions from pay appropriations as may be indicated from actual experience.

* * * * * * *

(d)(1) * * *

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(3) Notwithstanding the provisions of section 782 of this title, the Administrator shall, from time to time, determine the administrative costs to the Veterans' Administration which in [this] *the Administrator's* judgment are properly allocable to insurance issued under this subchapter and shall transfer such cost from the revolving fund to the appropriation "General Operating Expenses, Veterans' Administration".

(e) The premiums for Servicemen's Group Life Insurance placed in effect or continued in force for a member assigned to the Retired Reserve of a uniformed service who meets the qualifications of section 765(5)(C) of this title, shall be established under the criteria set forth in section 771(a) and (c) of this title, except that the Administrator may provide for average premiums for such various age groupings as [he] *the Administrator* may determine to be necessary according to sound actuarial principles, and shall include an amount necessary to cover the administrative cost of such insurance to the company or companies issuing or continuing such insurance. Such premiums shall be payable by the insureds thereunder as provided by the Administrator directly to the administrative office established for such insurance under section 766(b) of this title. The provisions of section 771(d) and (e) of this title shall be applicable to Servicemen's Group Life Insurance continued in force or issued to a member assigned to the Retired Reserve of a uniformed service. However, a separate accounting may be required by the Administrator for insurance issued to or continued in force on the lives of members assigned to the Retired Reserve and for other insurance in force under this subchapter. In such accounting, the Administrator is authorized to allocate claims and other costs among such programs of insurance according to accepted actuarial principles.

* * * * * * *

§ 770. Beneficiaries; payment of insurance

(a) Any amount of insurance under this subchapter in force on any member or former member on the date of [his] *the insured's* death shall be paid, upon the establishment of a valid claim therefor, to the person or persons surviving at the date of [his] *the insured's* death, in the following order of precedence:

First, to the beneficiary or beneficiaries as the member of former member may have designated by a writing received prior to death (1) in the uniformed services if insured under Servicemen's Group Life Insuance, or (2) in the administrative office established under section 766(b) of this title if separated or released from service, or if assigned to the Retired Reserve, and insured under Servicemen's Group Life Insurance, or if insured under Veterans' Group Life Insurance;

Second, if there be no such beneficiary, to the widow or widower of such member or former member;

Third, if none of the above, to the child or children of such member or former member and descendants of deceased children by representation;

Fourth, if none of the above, to the parents of such member or former member or the survivor of them;

Fifth, if none of the above, to the duly appointed executor or administrator of the estate of such member or former member.

Sixth, if none of the above, to other next of kin of such member or former member entitled under the laws of domicile of such member or former member at the time of [his] *the insured's* death.

* * * * * * *

(e) Until and unless otherwise changed, a beneficiary designation and settlement option filed by a member with [his] *the member's* uniformed service under prior provisions of law will be effective with respect to the increased insurance authorized under the Veterans' Insurance Act of 1974 and the insurance shall be settled in the same proportionate amount as the portion designated for such beneficiary or beneficiaries bore to the amount of insurance heretofore in effect.

* * * * * * *

§ 774. Advisory Council on Servicemen's Group Life Insurance

There is hereby established an Advisory Council on Servicemen's Group Life Insurance consisting of the Secretary of the Treasury as Chairman, the Secretary of Defense, the Secretary of Commerce, the Secretary of Health and Human Services, the Secretary of Transportation, and the Director of the Office of Management and Budget each of whom shall serve without additional compensation. The Council shall meet once a year, or oftener at the call of the Administrator, and shall review the operations under this subchapter and advise the Administrator on matters of policy relating to [his] *the Administrator's* activities thereunder.

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§ 776. Effective date

The insurance provided for in this subchapter and the deductions and contributions for that purpose shall take effect on the date designated by the Administrator and certified by [him] *the Administrator* to each Secretary concerned.

§ 777. Veterans' Group Life Insurance

(a) Veterans' Group Life Insurance shall be issued in the amount of $5,000, $10,000, $15,000, $20,000, $25,000, $30,000 or $35,000 only. No person may carry a combined amount of Servicemen's Group Life Insurance and Veterans' Group Life Insurance in excess of $35,000 at any one time. Any person insured under Veterans' Group Life Insurance who again becomes insured under Servicemen's Group Life Insurance may within sixty days after becoming so insured convert any or all of [his] *such person's* Veterans'

Group Life Insurance to an individual policy of insurance under subsection (e) of this section. However, if such a person dies within the sixty-day period and before converting [his] *such person's* Veterans' Group Life Insurance, Veterans' Group Life Insurance will be payable only if [he] *such person* is insured for less than $35,000 under Servicemen's Group Life Insurance, and then only in an amount which when added to the amount of Servicemen's Group Life Insurance payable shall not exceed $35,000.

* * * * * * *

(c) The premiums for Veterans' Group Life Insurance shall be established under the criteria set forth in sections 771(a) and (c) of this title, except that the Administrator may provide for average premiums for such various age groupings as [he] *the Administrator* may decide to be necessary according to sound actuarial principles, and shall include an amount necessary to cover the administrative cost of such insurance to the company or companies issuing such insurance. Such premiums shall be payable by the insureds thereunder as provided by the Administrator directly to the administrative office established for such insurance under section 766(b) of this title. In any case in which a member or former member who was mentally incompetent on the date [he] *such member or former member* first became insured under Veterans' Group Life Insurance dies within one year of such date, such insurance shall be deemed not to have lapsed for nonpayment of premiums and to have been in force on the date of death. Where insurance is in force under the preceding sentence, any unpaid premiums may be deducted from the proceeds of the insurance. Any person who claims eligibility for Veterans' Group Life Insurance based on disability incurred during a period of duty shall be required to submit evidence of qualifying health conditions and, if required, to submit to physical examinations at their own expense.

(d) Any amount of Veterans' Group Life Insurance in force on any person on the date of [his] *such person's* death shall be paid, upon the establishment of a valid claim therefor, pursuant to the provisions of section 770 of this title. However, any designation of beneficiary or beneficiaries for Servicemen's Group Life Insurance filed with a uniformed service until changed, shall be considered a designation of beneficiary or beneficiaries for Veterans' Group Life Insurance, but not for more than sixty days after the effective date of the insured's Veterans' Group Insurance, unless at the end of such sixty-day period, the insured is incompetent in which event such designation may continue in force until the disability is removed but not for more than five years after the effective date of the insured's Veterans' Group Life Insurance. Except as indicated above in incompetent cases, after such sixty-day period, any designation of beneficiary or beneficiaries for Veterans' Group Life Insurance to be effective must be by a writing signed by the insured and received by the administrative office established under section 766(b) of this title.

(e) An insured under Veterans' Group Life Insurance shall have the right to convert such insurance to an individual policy of life insurance upon written application for conversion made to the participating company [he] *the insured* selects and payment of the

required premiums. The individual policy will be issued without medical examination on a plan then currently written by such company which does not provide for the payment of any sum less than the face value thereof or for the payment of an additional amount as premiums in the event the insured performs active duty, active duty for training, or inactive duty training. The individual policy will be effective the day after the insured's Veterans' Group Life Insurance terminates by expiration of the five-year term period, except in a case where the insured is eligible to convert at an earlier date by reason of again having become insured under Servicemen's Group Life Insurance, in which event the effective date of the individual policy may not be later than the sixty-first day after he again became so insured. Upon request to the administrative office established under section 766(b) of this title, an insured under Veterans' Group Life Insurance shall be furnished a list of life insurance companies participating in the program established under this subchapter. In addition to the life insurance companies participating in the program established under this subchapter, the list furnished to an insured under this section shall include additional life insurance companies (not so participating) which meet qualifying criteria, terms, and conditions established by the Administrator and agree to sell insurance to former members in accordance with the provisions of this section.

* * * * * * *

(g) Any person whose Servicemen's Group Life Insurance was continued in force after termination of duty or discharge from service under the law as in effect prior to the date on which the Veterans' Group Life Insurance program (provided for under section 777 of this title) became effective, and whose coverage under Servicemen's Group Life Insurance terminated less than four years prior to such date, shall be eligible within one year from the effective date of the Veterans' Group Life Insurance program to apply for and be granted Veterans' Group Life Insurance in an amount equal to the amount of [his] *the insured's* Servicemen's Group Life Insurance which was not converted to an individual policy under prior law. Veterans' Group Life Insurance issued under this subsection shall be issued for a term period equal to five years, less the time elapsing between the termination of the applicant's Servicemen's Group Life Insurance and the effective date on which the Veterans' Group Life Insurance program became effective. Veterans' Group Life Insurance under this subsection shall only be issued upon application to the administrative office established under section 766(b) of this title, payment of the required premium, and proof of good health satisfactory to that office, which proof shall be submitted at the applicant's own expense. Any person who cannot meet the good health requirements for insurance under this subsection solely because of a service-connected disability shall have such disability waived. For each month for which any eligible veteran, whose service-connected disabilities are waived, is insured under this subsection there shall be contributed to the insurer or insurers issuing the policy or policies from the appropriation "Compensation and Pensions, Veterans' Administration" an amount necessary to cover the cost of the insurance in excess of the premiums

established for eligible veterans, including the cost of the excess mortality attributable to such veteran's service-connected disabilities. The Administrator may establish, as [he] *the Administrator* may determine to be necessary according to sound actuarial principles, a separate premium, age groupings for premium purposes, accounting, and reserves, for persons granted insurance under this subsection different from those established for other persons granted insurance under this section. Appropriations to carry out the purpose of this section are hereby authorized.

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Subchapter IV—General

§ 781. Replacement of surrendered and expired insurance

(a) * * *

(b) Any person who had United States Government life insurance or National Service Life Insurance on the five-year level premium term plan, the term of which expired while [he] *such person* was in the active service after April 25, 1951, or within one hundred and twenty days after separation from such active service, and in either case before January 1, 1957, who was entitled on December 31, 1958, to replace such insurance under section 623 of the National Service Life Insurance Act of 1940, shall, upon application made while on continuous active duty which began before January 1, 1959, or within one hundred and twenty days after separation therefrom, payment of premiums and evidence of good health satisfactory to the Administrator, be granted an equivalent amount of insurance of the five-year level premium term plan at the premium rate for [his] *such person's* then attained age.

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§ 783. Settlements for minors or incompetents

When an optional mode of settlement of National Service Life Insurance or United States Government life insurance heretofore or hereafter matured is available to a beneficiary who is a minor or incompetent, such option may be exercised by [his] *such beneficiary's* fiduciary, person qualified under section 14 of title 25, or person recognized by the Administrator as having custody of the person or the estate of such beneficiary, and the obligation of the United States under the insurance contract shall be fully satisfied by payment of benefits in accordance with the mode of settlement so selected.

§ 784. Suits on insurance

(a) * * *

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(g) Whenever a judgment or decree shall be rendered in an action brought under the provisions of this section, the court, as a part of its judgment or decree, shall determine and allow reasonable fees for the attorneys of the successful party or parties and apportion same if proper, said fees not to exceed 10 per centum of the amount recovered and to be paid by the Veterans' Administration

out of the payments to be made under the judgment or decree at a rate not exceeding one-tenth of each of such payments until paid; except that, in a suit brought by or on behalf of an insured during [his] *the insured's* lifetime for waiver of premiums on account of total disability, the court, as part of its judgment or decree, shall determine and allow a reasonable fee to be paid by the insured to [his] *the insured's* attorney.

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§ 787. Penalties

(a) Any person who shall knowingly make or cause to be made, or conspire, combine, aid, or assist in, agree to, arrange for, or in anywise procure the making or presentation of a false or fraudulent affidavit, declaration, certificate, statement, voucher, or paper, or writing purporting to be such, concerning any application for insurance or reinstatement thereof, waiver of premiums or claim for benefits under National Service Life Insurance, United States Government life insurance, or yearly renewable term insurance for [himself or any other] *any* person, shall be fined not more than $1,000, or be imprisoned for not more than one year, or both.

* * * * * * *

CHAPTER 21—SPECIALLY ADAPTED HOUSING FOR DISABLED VETERANS

* * * * * * *

§ 801. Veterans eligible for assistance

(a) The Administrator is authorized, under such regulations as [he] *the Administrator* may prescribe, to assist any veteran, who is entitled to compensation under chapter 11 of this title, based on service after April 20, 1898, for permanent and total service-connected disability—

(1) due to the loss, or loss of use, of both lower extremities, such as to preclude locomotion without the aid of braces, crutches, canes, or a wheelchair, or

(2) which includes (A) blindness in both eyes, having only light perception, plus (B) loss or loss of use of one lower extremity, or

(3) due to the loss or loss of use of one lower extremity together with (A) residuals of organic disease or injury, or (B) the loss or loss of use of one upper extremity, which so affect the functions of balance or propulsion as to preclude locomotion without the aid of braces, crutches, canes, or a wheelchair,

in acquiring a suitable housing unit with special fixtures or movable facilities made necessary by the nature of the veteran's disability, and necessary land therefor. The regulations of the Administrator shall include, but not be limited to, provisions requiring findings that (1) it is medically feasible for such veteran to reside in the proposed housing unit and in the proposed locality; (2) the proposed housing unit bears a proper relation to the veteran's present and anticipated income and expenses; and (3) the nature and condi-

tion of the proposed housing unit are such as to be suitable to the veteran's needs for dwelling purposes.

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§ 806. Mortgage Protection Life Insurance

(a) * * *

(b) Any policy of insurance purchased by the Administrator under this section shall be placed in effect on a date determined by the Administrator and shall automatically insure any eligible veteran who is or has been granted assistance in securing a suitable housing unit under this chapter against the death of the veteran, unless the veteran elects in writing not to be insured under this section or fails to timely respond to a request from the Administrator for information on which [his] *the veteran's* premiun can be based.

(c) The initial amount of insurance provided hereunder shall not exceed the lesser of the following amounts: (1) $40,000, (2) the amount of the loan outstanding on such housing unit on the date insurance under this section is placed in effect, or (3) in the case of a veteran granted assistance in securing a housing unit on or after such date the amount of the original loan. The amount of such insurance shall be reduced according to the amortization schedule of the loan and at no time shall exceed the amount of the outstanding loan with interest. If there is no outstanding loan on the housing unit no insurance shall be payable hereunder. If any eligible veteran elects not to be insured under this section, [he] *the veteran* may thereafter be insured hereunder only upon application, payment of required premiums, and compliance with such health requirements and other terms and conditions as may be prescribed by the Administrator.

(d) The premium rates charges a veteran for insurance under this section shall be paid at such times and in such manner as the Administrator shall prescribe and shall be based on such mortality data as the Administrator deems appropriate to cover only the mortality cost of insuring standard lives. The Administrator is authorized and directed to deduct the premiums charged veterans for life insurance under this section from any compensation or other cash benefits payable to them by the Veterans' Administration and to pay such premiums to the insurer or insurers for such insurance. Any veterans insured hereunder not eligible for cash benefits from the Veterans' Administration may pay the amount of [his] *the veteran's* premiums directly to the insurer or insurers for insurance hereunder.

* * * * * * *

(g) Each policy purchased under this section shall also provide, in terms approved by the Administrator, for the following:

(1) * * *

(2) that at any time the Administrator determines such action to be in the best interest of veterans or the Government [he] *the Administrator* may (A) discontinue the entire policy, or (B) at [his] *the Administrator's* option, exclude from coverage under such policy loans made after a date fixed by [him]

the Administrator for such purpose; however, any insurance previously issued to a veteran under such policy may not be canceled by the insurer solely because of termination of the policy by the Administrator with respect to new loans. If the policy is wholly discontinued, the Administrator shall have the right to require the transfer, to the extent and in a manner to be determined by [him] *the Administrator,* to any new company or companies with which [he] *the Administrator* has negotiated a new policy or policies, the amounts, as determined by the existing insurer or insurers with the concurrence of the Administrator of any policy or contingency reserves with respect to insurance previously in force;

(3) issuance to each veteran insured under this section of a uniform type of certificate setting forth the benefits to which [he] *the veteran* is entitled under the insurance;

* * * * * * *

(5) an accounting to the Administrator not later than ninety days after the end of each policy year which shall set forth, in a form approved by the Administrator, (A) the amount of premiums paid by veterans and contributions made by the Veterans' Administration accrued under the contract or agreement from its date of issue to the end of such contract year; (B) the total of all mortality and other claim charges incurred for that period; and (C) the amount of the insurer's expense and risk charges, if any, for that period. Any excess of the total of item (A) over the sum of items (B) and (C) shall be held by the insurer as a contingency reserve to be used by such insurer for charges under the contract or agreement only. The contingency reserve shall bear interest at a rate to be determined in advance of each contract year by the insurer, which rate shall be approved by the Administrator if consistent with the rates generally used by the insurer for similar funds held under other plans of group life insurance. If and when the Administrator determines that such contingency reserve has attained an amount estimated by [him] *the Administrator* to make satisfactory provision for adverse fluctuations in future charges under the contract, the Administrator shall require the insurer to adjust the premium rates and contributions so as to prevent any further substantial accretions to the contingency reserve. If and when the contract or agreement is discontinued and if after all charges have been made there is any positive balance remaining in the contingency reserve, such balance shall be payable to the Administrator and by [him] *the Administrator* deposited to the appropriation "Compensation and Pensions, Veterans' Administration," subject to the right of the insurer to make such payment in equal monthly installments over a period of not more than two years.

(h) With respect to insurance contracted for under this section, the Administrator is authorized to adopt such regulations relating to eligibility of the veteran for insurance, maximum amount of insurance, maximum duration of insurance, and other pertinent factors not specifically provided for in this section, which in [his] *the Administrator's* judgment are in the best interest of veterans or

the Government. Insurance contracted for under this section shall take effect as to eligible veterans heretofore granted assistance under this chapter on a date determined by the Administrator, and as to eligible veterans hereafter granted assistance under this chapter at the time of the closing of [his] *the veteran's* loan. The amount of the insurance at any time shall be the amount necessary to pay the mortgage indebtedness in full, except as otherwise limited by the policy.

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CHAPTER 23—BURIAL BENEFITS

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§ 901. Flags

(a) * * *

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(b) After the burial of the veteran the flag so furnished shall be given to [his] *the veteran's* next of kin. If no claim is made for the flag by the next of kin, it may be given, upon request, to a close friend or associate of the deceased veteran. If a flag is given to a close friend or associate of the deceased veteran, no flag shall be given to any other person on account of the death of such veteran.

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§ 904. Claims for reimbursement

Applications for payments under section 902 of this title must be filed within two years after the burial of the veteran. If the burial allowance was not payable at the death of the veteran because of the nature of [his] *the veteran's* discharge from the service, but after [his] *the veteran's* death his discharge has been corrected by competent authority so as to reflect a discharge from the service under conditions other than dishonorable, then the burial allowance may be paid if a claim is filed within two years from the date of correction of the discharge. If a claimant's application is incomplete at the time it is originally submitted, the Administrator shall notify the applicant of the evidence necessary to complete the application. If such evidence is not received within one year from the date of such notification, no allowance may be paid.

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CHAPTER 24—NATIONAL CEMETERIES AND MEMORIALS

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§ 1000. Establishment of National Cemetery system; composition of such system; appointment of director

(a) There shall be within the Veterans' Administration a National Cemetery System for the interment of deceased [servicemen] *servicemembers* and veterans. [To assist him in carrying out his responsibilities the] *The Administrator* in administering the cemeteries within the System, the Administrator may appoint a Direc-

tor, National Cemetery System, who shall perform such functions as may be assigned by the Administrator.

* * * * * * *

§ 1001. Advisory Committee on Cemeteries and Memorials

There shall be appointed by the Administrator an Advisory Committee on Cemeteries and Memorials. The Administrator shall advise and consult with the Committee from time to time with respect to the administration of the cemeteries for which [he] *the Administrator* is responsible, and with respect to the selection of cemetery sites, the erection of appropriate memorials, and the adequacy of Federal burial benefits. The Committee shall make periodic reports and recommendations to the Administrator and to Congress.

§ 1002. Persons eligible for interment in national cemeteries

Under such regulations as the Administrator may prescribe and subject to the provisions of section 3505 of this title, the remains of the following persons may be buried in any open national cemetery in the National Cemetery System:

(1) Any veteran (which for the purposes of this chapter includes a person who died in the active military, naval, or air service).

(2) Any member of a Reserve component of the Armed Forces, and any member of the Army National Guard or the Air National Guard, whose death occurs under honorable conditions while [he] *such member* is hospitalized or undergoing treatment, at the expense of the United States, for injury or disease contracted or incurred under honorable conditions while [he] *such member* is performing active duty for training, inactive duty training, or undergoing that hospitalization or treatment at the expense of the United States.

(3) Any member of the Reserve Officers' Training Corps of the Army, Navy, or Air force whose death occurs under honorable conditions while [he] *such member* is—

(A) attending an authorized training camp or on an authorized practice cruise;

(B) performing authorized travel to or from that camp or cruise; or

(C) hospitalized or undergoing treatment, at the expense of the United States, for injury or disease contracted or incurred under honorable conditions while [he] *such member* is—

(i) attending that camp or on that cruise;

(ii) performing that travel; or

(iii) undergoing that hospitalization or treatment at the expense of the United States.

(4) Any citizen of the United States who, during any war in which the United States is or has been engaged, served in the armed forces of any government allied with the United States during that war, and whose last such service terminated honorably.

(5) The [wife, husband,] surviving spouse, minor child, and, in the discretion of the Administrator, unmarried adult child of any of the persons listed in paragraphs (1) through (4).

(6) Such other persons or classes of persons as may be designated by the Administrator.

* * * * * * *

§ 1004. Administration

(a) The Administrator is authorized to make all rules and regulations which are necessary or appropriate to carry out the provisions of this chapter, and may designate those cemeteries which are considered to be national cemeteries.

(b) In conjunction with the development and administration of cemeteries for which [he] *the Administrator* is responsible, the Administrator shall provide all necessary facilities including, as necessary, superintendents' lodges, chapels, crypts, mausoleums, and columbaria.

(c) Each grave in a national cemetery shall be marked with an appropriate marker. Such marker shall bear the name of the person buried, the number of the grave, and such other information as the Administrator shall by regulation prescribe.

(d) There shall be kept in each national cemetery, and at the main office of the Veterans' Administration, a register of burials in each cemetery setting forth the name of each person buried in the cemetery, the number of the grave in which [he] *the veteran* is buried, and such other information as the Administrator by regulation may prescribe.

(e) In carrying out [his] *the Administrator's* responsibilities under this chapter, the Administrator may contract with responsible persons, firms, or corporations for the care and maintenance of such cemeteries under [his] *the Administrator's* jurisdiction as [he] *the Administrator* shall choose, under such terms and conditions as [he] *the Administrator* may prescribe.

(f) The Administrator is authorized to convey to any State, or political subdivision thereof, in which any national cemetery is located, all right, title, and interest of the United States in and to any Government owned or controlled approach road to such cemetery if, prior to the delivery of any instrument of conveyance, the State or political subdivision to which such conveyance is to be made notifies the Administrator in writing of its willingness to accept and maintain the road included in such conveyance. Upon the execution and delivery of such a conveyance, the jurisdiction of the United States over the road conveyed shall cease and thereafter vest in the State or political subdivision concerned.

(g) Notwithstanding any other provision of law, the Administrator may at such time as [he] *the Administrator* deems desirable, relinquish to the State in which any cemetery, monument, or memorial under [his] *the Administrator's* jurisdiction is located, such portion of legislative jurisdiction over the lands involved as is necessary to establish concurrent jurisdiction between the Federal Government and the State concerned. Such partial relinquishment of jurisdiction under the authority of this subsection may be made by filing with the Governor of the State involved a notice of such relinquishment and shall take effect upon acceptance thereof by the State in such manner as its laws may prescribe.

§ 1005. Disposition of inactive cemeteries

(a) The Administrator may transfer, with the consent of the agency concerned, any inactive cemetery, burial plot, memorial, or monument within [his] *the Administrator's* control to the Department of the Interior for maintenance as a national monument or park, or to any other agency of the Government. Any cemetery transferred to the Department of the Interior shall be administered by the Secretary of the Interior as a part of the National Park System, and funds appropriated to the Secretary for such system shall be available for the management and operation of such cemetery.

(b) The Administrator may also transfer and convey all right, title, and interest of the United States in or to any inactive cemetery or burial plot, or portion thereon, to any State, county, municipality, or proper agency thereof, in which or in the vicinity of which such cemetery or burial plot is located, but in the event the grantee shall cease or fail to care for and maintain the cemetery or burial plot or the graves and monuments contained therein in a manner satisfactory to the Administrator, all such right, title, and interest transferred or conveyed by the United States, shall revert to the United States.

(c) If a cemetery not within the National Cemetery System has been or is to be discontinued, the Administrator may provide for the removal of remains from that cemetery to any cemetery within such System. [He] *The Administrator* may also provide for the removal of the remains of any veteran from a place of temporary interment, or from an abandoned grave or cemetery to a national cemetery.

§ 1006. Acquisition of lands

As additional lands are needed for national cemeteries, they may be acquired by the Administrator by purchase, gift (including donations from States or political subdivisions thereof), condemnation, transfer from other Federal agencies, or otherwise, as [he] *the Administrator* determines to be in the best interest of the United States.

§ 1007. Authority to accept and maintain suitable memorials

Subject to such restrictions as [he] *the Administrator* may prescribe, the Administrator may accept gifts, devises, or bequests from legitimate societies and organizations or reputable individuals, made in any manner, which are made for the purpose of beautifying national cemeteries, or are determined to be beneficial to such cemetery. [He] *The Administrator* may make land available for this purpose, and may furnish such care and maintenance as [he] *the Administrator* deems necessary.

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PART III—READJUSTMENT AND RELATED BENEFITS

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CHAPTER 36—ADMINISTRATION OF EDUCATIONAL BENEFITS

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Subchapter II—Miscellaneous Provisions

§ 1780. Payment of educational assistance or subsistence allowances

PERIOD FOR WHICH PAYMENT MAY BE MADE

(a) * * *

* * * * * * *

ADVANCE PAYMENT OF INITIAL EDUCATIONAL ASSISTANCE OR SUBSISTENCE ALLOWANCE

(d)(1) * * *

(2) Subject to the provisions of this subsection, and under regulations which the Administrator shall prescribe, an eligible veteran or eligible person shall be paid an educational assistance allowance or subsistence allowance, as appropriate, advance payment. Such advance payment shall be made in an amount equivalent to the allowance for the month or fraction thereof in which pursuit of the program will commence, plus the allowance for the succeeding month. In the case of a [serviceman] *person* on active duty, who is pursuing a program of education, the advance payment shall be in a lump sum based upon the amount payable for the entire quarter, semester, or term, as applicable. In no event shall an advance payment be made under this subsection to a veteran or person intending to pursue a program of education on less than a half-time basis. An advance payment may not be made under this subsection to any veteran or person unless the veteran or person requests such payment and the Administrator finds that the educational institution at which such veteran or person is accepted or enrolled has agreed to, and can satisfactorily, carry out the provisions of paragraphs (4)(B) and (C) and (5) of this subsection. The application for advance payment, to be made on a form prescribed by the Administrator, shall—

(A) in the case of an initial enrollment of a veteran or person in an educational institution, contain information showing that the veteran or person (i) is eligible for educational benefits, (ii) has been accepted by the institution, and (iii) has notified the institution of such veteran's or person's intention to attend that institution; and

(B) in the case of a re-enrollment of a veteran or person, contain information showing that the veteran or person (i) is eligible to continue such veteran's or person's program of education or training and (ii) intends to re-enroll in the same institution,

and, in either case, shall also state the number of semester or clock-hours to be pursued by such veteran or person.

* * * * * * *

CHAPTER 43—VETERAN'S REEMPLOYMENT RIGHTS

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§ 2024. Rights of persons who enlist or are called to active duty: Reserves

(a) * * *

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(g) Any member of a Reserve component of the Armed Forces of the United States who is ordered to active duty for not more than 90 days under section 673b of title 10, United States Code, whether or not voluntarily, shall be entitled to all reemployment rights and benefits provided under subsection (c) of this section for persons ordered to an initial period of active duty for training of not less than twelve consecutive weeks; and shall have the service limitation governing eligibility for reemployment rights under subsections (a) and (b)(1) of this section extended by [his] *the* period of such active duty.

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PART IV—GENERAL ADMINISTRATIVE PROVISIONS

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CHAPTER 51—APPLICATIONS, EFFECTIVE DATES, AND PAYMENTS

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Subchapter I—Applications

§ 3001. Claims and forms

(a) * * *

(b)(1) A claim by a [widow] *surviving spouse* or child for compensation or dependency and indemnity compensation shall also be considered to be a claim for death pension and accrued benefits, and a claim by a [widow] *surviving spouse* or child for death pension shall be considered to be a claim for death compensation (or dependency and indemnity compensation) and accrued benefits.

* * * * * * *

§ 3006. Furnishing of information by other agencies

The head of any Federal department or agency shall provide such information to the Administrator as [he] *the Administrator* may request for purposes of determining eligibility for or amounts of benefits, or verifying other information with respect thereto.

Subchapter II—Effective Dates

§ 3010. Effective dates of awards

(a) * * *

(b)(1) The effective date of an award of disability compensation to a veteran shall be the day following the date of [his] *the veteran's* discharge or release if application therefor is received within one year from such date of discharge or release.

* * * * * * *

§ 3012. Effective dates of reductions and discontinuances

(a) * * *

(b) The effective date of a reduction or discontinuance of compensation, dependency and indemnity compensation, or pension—

(1) * * *

* * * * * * *

(6) by reason of change in law or administrative issue, change in interpretation of a law or administrative issue, or, for compensation purposes, a change in service-connected or employability status or change in physical condition shall be the last day of the month following sixty days from the date of notice to the payee (at [his] *the payee's* last address of record) of the reduction or discontinuance;

* * * * * * *

Subchapter III—Payment of Benefits

§ 3020. Payment of benefits; delivery

(a) Monetary benefits under laws administered by the Veterans' Administration shall be paid by checks drawn, pursuant to certification by the Administrator, in such form as to protect the United States against loss, and payable by the Treasurer of the United States. Such checks shall be payable without separate vouchers or receipts except in any case in which the Administrator may consider a voucher necessary for the protection of the Government. Such checks shall be transmitted by mail to the payee thereof at [his] *the payee's* last known address and, if [he] *the payee* has moved and filed a regular change of address notice with the United States Postal Service, shall be forwarded to [him] *the payee.* The envelope or cover of each such checks shall bear on the face thereof the following notice: "POSTMASTER: PLEASE FORWARD if addressee has moved and filed a regular change-of-address notice. If addressee is deceased, return the letter with date of death, if known."

(b) Postmasters, delivery clerks, letter carriers, and all other postal employees are prohibited from delivering any mail addressed by the United States and containing any such check to any person whomsoever if [he] *such person* has died or in the case of a [widow] *surviving spouse,* if the postal employee believes that [she] *the surviving spouse* has remarried (unless the mail is addressed to [her] *the surviving spouse* in the name [she] *the surviving spouse* has acquired by [her] *the* remarriage). The preceding sentence shall apply in the case of checks in payment of benefits other than pension, compensation, dependency and indemnity

compensation, and insurance, only insofar as the Administrator deems it necessary to protect the United States against loss.

* * * * * * *

§ 3021. Payment of certain accrued benefits upon death of a beneficiary

(a) Except as provided in sections 3329 and 3330 of title 31, periodic monetary benefits (other than insurance and servicemen's indemnity) under laws administered by the Veterans' Administration to which an individual was entitled at [his] death under existing ratings or decisions, or those based on evidence in the file at date of death (hereafter in this section and section 3022 of this title referred to as "accrued benefits") and due and unpaid for a period not to exceed one year, shall, upon the death of such individual be paid as follows:

(1) Upon the death of a person receiving an apportioned share of benefits payable to a veteran, all or any part of such benefits to the veteran or to any other dependent or dependents of the veteran, as may be determined by the Administrator;

(2) Upon the death of a veteran, to the living person first listed below:

(A) [His] *The veteran's* spouse;

(B) [His] *The veteran's* children (in equal shares);

(C) [His] *The veteran's* dependent parents (in equal shares);

(3) Upon the death of a surviving spouse or remarried surviving spouse, to the children of the deceased veteran;

(4) Upon the death of a child, to the surviving children of the veteran who are entitled to death compensation, dependency and indemnity compensaton, or death pension; and

(5) In all other cases, only so much of the accrued benefits may be paid as may be necessary to reimburse the person who bore the expense of last sickness and burial.

* * * * * * *

§ 3022. Cancellation of checks mailed to deceased payees

A check received by a payee in payment of accrued benefits shall, if the payee died on or after the last day of the period covered by the check, be returned to the issuing office and canceled, unless negotiated by the payee or the duly appointed representative of [his] *the payee's* estate. The amount represented by such check, or any amount recovered by reason of improper negotiation of any such check, shall be payable in the manner provided in section 3021 of this title, without regard to section 3021(c) of this title. Any amount not paid in the manner provided in section 3021 of this title shall be paid upon settlement by the General Accounting Office to the estate of the deceased payee unless the estates will escheat.

* * * * * * *

CHAPTER 53—SPECIAL PROVISIONS RELATING TO BENEFITS

* * * * * * *

§ 3101. Nonassignability and exempt status of benefits

(a) Payments of benefits due or to become due under any law administered by the Veterans' Administration shall not be assignable except to the extent specifically authorized by law, and such payments made to, or on account of, a beneficiary shall be exempt from taxation, shall be exempt from the claim of creditors, and shall not be liable to attachment, levy, or seizure by or under any legal or equitable process whatever, either before or after receipt by the beneficiary. The preceding sentence shall not apply to claims of the United States arising under such laws nor shall the exemption therein contained as to taxation extend to any property purchased in part or wholly out of such payments. The provisions of this section shall not be construed to prohibit the assignment of insurance otherwise authorized under chapter 19 of this title, or of servicemen's indemnity. For the purposes of this subsection, in any case where a payee of an educational assistance allowance has designated the address of an attorney-in-fact as the payee's address for the purpose of receiving [his or her] *a* benefit check and has also executed a power of attorney giving the attorney-in-fact authority to negotiate such benefit check, such action shall be deemed to be an assignment and is prohibited.

(b) This section shall prohibit the collection by setoff or otherwise out of any benefits payable pursuant to any law administered by the Veterans' Administration and relating to veterans, their estates, or their dependents, of any claim of the United States or any agency thereof against (1) any person other than the indebted beneficiary or [his] *the beneficiary's* estate; or (2) any beneficiary or [his] *the beneficiary's* estate except amounts due the United States by such beneficiary or [his] *the beneficiary's* estate by reason of overpayments or illegal payments made under such laws to such beneficiary or [his] *the beneficiary's* estate or to [his] *the beneficiary's* dependents as such. If the benefits referred to in the preceding sentence are insurance payable by reason of yearly renewable term insurance, United States Government life insurance, or National Service Life Insurance issued by the United States, the exemption provided in this section shall not apply to indebtedness existing against the particular insurance contract upon the maturity of which the claim is based, whether such indebtedness is in the form of liens to secure unpaid premiums or loans, or interest on such premiums or loans, or indebtedness arising from overpayments of dividends, refunds, loans, or other insurance benefits.

* * * * * * *

§ 3102. Waiver of recovery of claims by the United States

(a) * * *

(b) With respect to any loan guaranteed, insured, or made under chapter 37 of this title, the Administrator may waive payment of an indebtedness to the Veterans' Administration by the veteran (as defined in sections 101 and 1801), or [his] *the veteran's* spouse, fol-

lowing default and loss of the property, where the Administrator determines that collection of such indebtedness would be against equity and good conscience.

(c) The Administrator may not exercise [his] *the Administrator's* authority under subsection (a) or (b) of this section to waive recovery of any payment or the collection of any indebtedness (or any interest thereof) if, in [his] *the Administrator's* opinion, there exists in connection with the claim for such waiver an indication of fraud, misrepresentation, material fault, or lack of good faith on the part of the person or persons having an interest in obtaining a waiver of such recovery or the collection of such indebtedness (or any interest thereon).

* * * * * * *

§ 3103. Certain bars to benefits

(a) The discharge or dismissal by reason of the sentence of a general court-martial of any person from the Armed Forces, or the discharge of any such person on the ground that [he] *such person* was a conscientious objector who refused to perform military duty or refused to wear the uniform or otherwise to comply with lawful orders of competent military authority, or as a deserter, or on the basis of an absence without authority from active duty for a continuous period of at least one hundred and eighty days if such person was discharged under conditions other than honorable unless such person demonstrates to the satisfaction of the Administrator that there are compelling circumstances to warrant such prolonged unauthorized absence, or of an officer by the acceptance of [his] *such officer's* resignation for the good of the service, or (except as provided in subsection (c) the discharge of any individual during a period of hostilities as an alien, shall bar all rights of such person under laws administered by the Veterans' Administration based upon the period of service from which discharged or dismissed, notwithstanding any action subsequent to the date of such discharge by a board established pursuant to section 1553 of title 10.

(b) Notwithstanding subsection (a), if it is established to the satisfaction of the Administrator that, at the time of the commission of an offense leading to [his] *a person's* court-martial, discharge, or resignation, [any] *that* person was insane, such person shall not be precluded from benefits under laws administered by the Veterans' Administration based upon the period of service from which [he] *such person* was separated.

(c) Subsection (a) shall not apply to any alien whose service was honest and faithful, and who was not discharged on [his] *the individual's* own application or solicitation as an alien. No individual shall be considered as having been discharged on [his] *the individual's* own application or solicitation as an alien in the absence of affirmative evidence establishing that [he] *the individual* was so discharged.

* * * * * * *

(e)(1) * * *

(2) Notwithstanding any other provision of law—

(A) no person discharged or released from active military, naval, or air service under other than honorable conditions who has been awarded a general or honorable discharge under revised standards for the review of discharges, (i) as implemented by the President's directive of January 19, 1977, initiating further action with respect to the President's Proclamation 4313 of September 16, 1974, (ii) as implemented on or after April 5, 1977, under the Department of Defense's special discharge review program, or (iii) as implemented subsequent to April 5, 1977, and not made applicable to all persons administratively discharged or released from active military, naval, or air service under other than honorable conditions, shall be entitled to benefits under laws administered by the Veterans' Administration except upon a determination, based on a case-by-case review, under standards (meeting the requirements of paragraph (1) of this subsection) applied by the board of review concerned under section 1553 of title 10, subject to review by the Secretary concerned, that such person would be awarded an upgraded discharge under such standards; and

(B) such determination shall be made by such board (i) on an expedited basis after notification by the Veterans' Administration to the Secretary concerned that such person has received, is in receipt of, or has applied for such benefits or after a written request is made by such person or such determination, (ii) on its own initiative before October 9, 1978, in any case where a general or honorable discharge has been awarded before October 9, 1977, under revised standards referred to in clause (A)(i), (ii), or (iii) of this paragraph, or (iii) on its own initiative at the time a general or honorable discharge is so awarded in any case where a general or honorable discharge is awarded after October 8, 1977.

If such board makes a preliminary determination that such person would not have been awarded an upgraded discharge under standards meeting the requirements of paragraph (1) of this subsection, such person shall be entitled to an appearance before the board, as provided for in section 1553(c) of title 10, prior to a final determination on such question and shall be given written notice by the board of such preliminary determination and of [his or her] *the* right to such appearance. The Administrator shall, as soon as administratively feasible, notify the appropriate board of review of the receipt of benefits under laws administered by the Veterans' Administration, or of the application for such benefits, by any person awarded an upgraded discharge under revised standards referred to in clause (A)(i), (ii), or (iii) of this paragraph with respect to whom a favorable determination has not been made under this paragraph.

* * * * * * *

§ 3104. Prohibition against duplication of benefits

(a)(1) Except to the extent that retirement pay is waived under other provisions of law, not more than one award of pension, compensation, emergency officers', regular, or reserve retirement pay, or initial award of naval pension granted after July 13, 1943, shall

be made concurrently to any person based on [his] *such person's* own service or concurrently to any person based on the service of any other person.

* * * * * * *

(b)(1) Except as provided in paragraphs (2) and (3) of this subsection and in section 521(i) of this title, the receipt of pension, compensation, or dependency and indemnity compensation by a [widow,] *surviving spouse,* child, or parent on account of the death of any person, or receipt by any person of pension or compensation on account of [his] *such person's* own service, shall not bar the payment of pension, compensation, or dependency and indemnity compensation on account of the death or disability of any other person.

* * * * * * *

(3) Benefits other than insurance under laws administered by the Veterans' Administration may not be paid to any person by reason of the death of more than one person to whom [he or she] *such person* was married; however, the person may elect one or more times to receive benefits by reason of the death of any one spouse.

(c) Pension, compensation, or retirement pay on account of [his] *any person's* own service shall not be paid to [any] *such* person for any period for which [he] *such person* receives active service pay.

§ 3105. Waiver of retired pay

Any person who is receiving pay pursuant to any provision of law providing retired or retirement pay to persons in the Armed Forces, or as a commissioned officer of the National Oceanic and Atmospheric Administration or of the Public Health Service, and who would be eligible to receive pension or compensation under the laws administered by the Veterans' Administration if [he] *such person* were not receiving such retired or retirement pay, shall be entitled to receive such pension or compensation upon the filing by such person with the department by which such retired or retirement pay is paid of a waiver of so much of [his] *such person's* retired or retirement pay as is equal in amount to such pension or compensation. To prevent duplication of payments, the department with which any such waiver is filed shall notify the Veterans' Administration of the receipt of such waiver, the amount waived, and the effective date of the reduction in retired or retirement pay.

§ 3106. Renouncement of right to benefits

(a) Any person entitled to pension, compensation, or dependency and indemnity compensation under any of the laws administered by the Veterans' Administration may renounce [his] *the* right thereto. The application renouncing the right shall be in writing over the person's signature. Upon the filing of such an application, payment of such benefits and the right thereto shall be terminated, and such person shall be denied any and all rights thereto from such filing.

(b) Renouncement of rights shall not preclude any person from filing a new application for pension, compensation, or dependency

and indeminity compensation at a later date, but such new application shall be treated as an original application, and no payments shall be made for any period before the date such new application is filed.

* * * * * * *

§ 3108. Withholding benefits of persons in territory of the enemy

(a) * * *

* * * * * * *

(c) While such alien is located in territory of, or under military control of, an enemy of the United States or of any of its allies, the Administrator, in [his] *the Administrator's* discretion, may apportion and pay any part of such benefits to the dependents of such alien. No dependent of such alien shall receive benefits by reason of this subsection in excess of the amount to which [he] *the dependent* would be entitled if such alien were dead.

§ 3109. Payment of certain withheld benefits

(a) Any person who, but for section 3108 of this title, was entitled to benefits under any of the laws administered by the Veterans' Administration, whose award of benefits was terminated under such section, or whose benefits were not paid pursuant to sections 3329 and 3330 of title 31, and who was not guilty of mutiny, treason, sabotage, or rendering assistance to an enemy of the United States or its allies, shall be paid the full amount of any benefits not paid because of such section 3108, or withheld (including the amount of any checks covered on [his] *such person's* account into the Treasury as miscellaneous receipts together with any amount to [his] *such person's* credit in the special-deposit account) pursuant to sections 3329 and 3330 of title 31. The Administrator shall certify to the Secretary of the Treasury the amounts of payments which, but for this section, would have been made from the special deposit account, and the Secretary of the Treasury, as directed by the Administrator, shall reimburse the appropriations of the Veterans' Administration from such special deposit account, or cover into the Treasury as miscellaneous receipts the amounts so certified.

(b) No payments shall be made for any period before the date claim therefor is filed under this section to any person whose award was terminated, or whose benefits were not paid, before July 1, 1954, because [he] *such person* was a citizen or subject of Germany or Japan residing in Germany or Japan.

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CHAPTER 55—MINORS, INCOMPETENTS, AND OTHER WARDS

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§ 3202. Payments to and supervision of fiduciaries

(a)(1) Where it appears to the Administrator that the interest of the beneficiary would be served thereby, payment of benefits under

any law administered by the Veterans' Administration may be made directly to the beneficiary or to a relative or some other person for the use and benefit of the beneficiary, regardless of any legal disability on the part of the beneficiary. Where, in the opinion of the Administrator, any fiduciary receiving funds on behalf of a Veterans' Administration beneficiary is acting in such a number of cases as to make it impracticable to conserve properly the estates or to supervise the persons of the beneficiaries, the Administrator may refuse to make future payments in such cases as [he] *the Administrator* may deem proper.

* * * * * * *

(b) Whenever it appears that any guardian, curator, conservator, or other person, in the opinion of the Administrator, is not properly executing or has not properly executed the duties of [his trust] *the trust of such guardian, curator, conservator, or other person* or has collected or paid, or is attempting to collect or pay, fees, commissions, or allowances that are inequitable or in excess of those allowed by law for the duties performed or expenses incurred, or has failed to make such payments as may be necessary for the benefit of the ward or the dependents of the ward, then the Administrator may appear, by [his duly] *the Administrator's* authorized attorney, in the court which has appointed such fiduciary, or in any court having original, concurrent, or appellate jurisdiction over said cause, and make proper presentation of such matters. The Administrator, in [his] *the Administrator's* discretion, may suspend payments to any such guardian, curator, conservator, or other person who shall neglect or refuse, after reasonable notice, to render an account to the Administrator from time to time showing the application of such payments for the benefit of such incompetent or minor beneficiary, or who shall neglect or refuse to administer the estate according to law. The Administrator may appear or intervene by [his] *the Administrator's* duly authorized attorney in any court as an interested party in any litigation instituted by [himself] *the Administrator* or otherwise, directly affecting money paid to such fiduciary under this section.

* * * * * * *

(d) All or any part of any benefits the payment of which is suspended or withheld under this section may, in the discretion of the Administrator, be paid temporarily to the person having custody and control of the incompetent or minor beneficiary, to be used solely for the benefit of such beneficiary, or, in the case of an incompetent veteran, may be apportioned to the dependent or dependents, if any, of such veteran. Any part not so paid and any funds of a mentally incompetent or insane veteran not paid to the chief officer of the institution in which such veteran is an inmate nor apportioned to [his] *the veteran's* dependent or dependents may be ordered held in the Treasury to the credit of such beneficiary. All funds so held shall be disbursed under the order and in the discretion of the Administrator for the benefit of such beneficiary or [his] *the beneficiary's* dependents. Any balance remaining in such fund to the credit of any beneficiary may be paid to [him] *the beneficiary* if [he] *the beneficiary* recovers and is found compe-

tent, or if a minor, attains majority, or otherwise to [his] *the beneficiary's* guardian, curator, or conservator, or, in the event of [his] *the beneficiary's* death, to [his] *the beneficiary's* personal representative, except as otherwise provided by law; however, payment will not be made to [his] *the beneficiary's* personal representative if, under the law of [his] *the beneficiary's* last legal residence, [his] *the beneficiary's* estate would escheat to the State. In the event of the death of a mentally incompetent or insane veteran, all gratuitous benefits under laws administered by the Veterans' Administration deposited before or after August 7, 1959, in the personal funds of patients trust fund on account of such veteran shall not be paid to the personal representative of such veteran, but shall be paid to the following persons living at the time of settlement, and in the order named: The surviving spouse, the children (without regard to age or marital status) in equal parts, and the dependent parents of such veteran, in equal parts. If any balance remains, such balance shall be deposited to the credit of the applicable current appropriation; except that there may be paid only so much of such balance as may be necessary to reimburse a person (other than a political subdivision of the United States) who bore the expenses of last sickness or burial of the veteran for such expenses. No payment shall be made under the two preceding sentences of this subsection unless claim therefor is filed with the Veterans' Administration within five years after the death of the veteran, except that, if any person so entitled under said two sentences is under legal disability at the time of death of the veteran, such five-year period of limitation shall run from the termination or removal of the legal disability.

(e) Any funds in the hands of a fiduciary appointed by a State court or the Veterans' Administration derived from benefits payable under laws administered by the Veterans' Administration, which under the law of the State wherein the beneficiary had [his] last legal residence would escheat to the State, shall escheat to the United States and shall be returned by such fiduciary, or by the personal representative of the deceased beneficiary, less legal expenses of any administration necessary to determine that an escheat is in order, to the Veterans' Administration, and shall be deposited to the credit of the applicable revolving fund, trust fund, or appropriation.

§ 3203. Hospitalized veterans and estate of incompetent institutionalized veterans

(a) * * *

* * * * * * *

(e) Where any veteran in receipt of an aid and attendance allowance described in section 314(r) of this title is hospitalized at Government expense, such allowance shall be discontinued from the first day of the second calendar month which begins after the date of [his] *the veteran's* admission for such hospitalization for so long as such hospitalization continues. Any discontinuance required by administrative regulation, during hospitalization of a veteran by the Veterans' Administration, of increased pension based on need of regular aid and attendance or additional compensation based on

need of regular aid and attendance as described in subsection (*l*) or (m) of section 314 of this title, shall not be effective earlier than the first day of the second calendar month which begins after the date of the veterans' admission for hospitalization. In case a veteran affected by this subsection leaves a hospital against medical advice and is thereafter admitted to hospitalization within six months from the date of such departure, such allowance, increased pension, or additional compensation, as the case may be, shall be discontinued from the date of such readmission for so long as such hospitalization continues.

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CHAPTER 57—RECORDS AND INVESTIGATIONS

* * * * * * *

§ 3303. Certification of records of District of Columbia

When a copy of any public record of the District of Columbia is required by the Veterans' Administration to be used in determining the eligibility of any person for benefits under laws administered by the Veterans' Administration, the official custodian of such public record shall without charge provide the applicant for such benefits or any person (including any veterans' organization acting on [his] *the veteran's* behalf or the authorized representative of the Veterans' Administration with a certified copy of such record.

* * * * * * *

CHAPTER 59—AGENTS AND ATTORNEYS

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§ 3401. Prohibition against acting as claims agent or attorney

Except as provided by section 500 of title 5, no individual may act as an agent or attorney in the preparation, presentation, or prosecution of any claim under laws administered by the Veterans' Administration unless [he] *such individual* has been recognized for such purposes by the Administrator.

* * * * * * *

§ 3404. Recognition of agents and attorneys generally

(a) * * *

(b) The Administrator, after notice and opportunity for a hearing, may suspend or exclude from further practice before the Veterans' Administration any agent or attorney recognized under this section if [he] *the Administrator* finds that such agent or attorney—

(1) has engaged in any unlawful, unprofessional, or dishonest practice;

(2) has been guilty of disreputable conduct;

(3) is incompetent;

(4) has violated or refused to comply with any of the laws administered by the Veterans' Administration, or with any of the

regulations or instructions governing practice before the Veterans' Administration; or

(5) has in any manner deceived, misled, or threatened any actual or prospective claimant.

* * * * * * *

§ 3405. Penalty for certain acts

Whoever (1) directly or indirectly solicits, contracts for, charges, or receives, or attempts to solicit, contract for, charge, or receive, any fee or compensation except as provided in sections 3404 or 784 of this title, or (2) wrongfully withholds from any claimant or beneficiary any part of a benefit or claim allowed and due [him] *to the claimant or beneficiary* shall be fined not more than $500 or imprisoned at hard labor for not more than two years, or both.

CHAPTER 61—PENAL AND FORFEITURE PROVISIONS

* * * * * * *

§ 3501. Misappropriation by fiduciaries

(a) Whoever, being a guardian, curator, conservator, committee, or person legally vested with the responsibility or care of a claimant or [his] *a claimant's* estate, or any other person having charge and custody in a fiduciary capacity of money heretofore or hereafter paid under any of the laws administered by the Veterans' Administration for the benefit of any minor, incompetent, or other beneficiary, shall lend, borrow, pledge, hypothecate, use, or exchange for other funds or property, except as authorized by law, or embezzle or in any manner misappropriate any such money or property derived therefrom in whole or in part and coming into [his] *such fiduciary's* control in any manner whatever in the execution of [his] *such fiduciary's* trust, or under color of [his] *such fiduciary's* office or service as such fiduciary, shall be fined not more than $2,000 or imprisoned not more than five years, or both.

(b) Any willful neglect or refusal to make and file proper accountings or reports concerning such money or property as required by law shall be taken to be sufficient evidence prima facie of such embezzlement or misappropriation.

* * * * * * *

§ 3503. Forfeiture for fraud

(a) * * *

* * * * * * *

(c) Forfeiture of benefits by a veteran shall not prohibit payment of the burial allowance, death compensation, dependency and indemnity compensation, or death pension in the event of [his] *the veteran's* death.

(d)(1) * * *

(2) The Administrator is hereby authorized and directed to review all cases in which, because of a false or fraudulent affidavit, declaration, certificate, statement, voucher, or paper, a forfeiture of gratuitous benefits under laws administered by the Veterans' Ad-

ministration was imposed, pursuant to this section or prior provisions of law, on or before September 1, 1959. In any such case in which [he] *the Administrator* determines that the forfeiture would not have been imposed under the provisions of this section in effect after September 1, 1959, [he] *the Administrator* shall remit the forfeiture, effective the date of enactment of this amendatory Act. Benefits to which the individual concerned becomes eligible by virtue of any such remission may be awarded, upon application therefor, and the effective date of any award of compensation, dependency and indemnity compensation, or pension made in such a case shall be fixed in accordance with the provisions of section 3010(g) of this title.

* * * * * * *

§ 3504. Forfeiture for treason

(a) * * *

(b) The Administrator, in [his] *the Administrator's* discretion, may apportion and pay any part of benefits forfeited under subsection (a) to the dependents of the person forfeiting such benefits. No dependent of any person shall receive benefits by reason of this subsection in excess of the amount to which [he] *the dependent* would be entitled if such person were dead.

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PART V—BOARDS AND DEPARTMENTS

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CHAPTER 71—BOARD OF VETERANS' APPEALS

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§ 4005. Filing of notice of disagreement and appeal

(a) Appellate review will be initiated by a notice of disagreement and completed by a substantive appeal after a statement of the case is furnished as prescribed in this section. Each appellant will be accorded hearing and representation rights pursuant to the provisions of this chapter and regulations of the Administrator.

(b)(1) Except in the case of simultaneously contested claims, notice of disagreement shall be filed within one year from the date of mailing of notice of the result of initial review or determination. Such notice, and appeals, must be in writing and be filed with the activity which entered the determination with which disagreement is expressed (hereafter referred to as the "agency of original jurisdiction"). A notice of disagreement postmarked before the expiration of the one-year period will be accepted as timely filed.

(2) Notices of disagreement, and appeals, must be in writing and may be filed by the claimant, [his] *the claimant's* legal guardian, or such accredited representative, attorney, or authorized agent as may be selected by [him] *the claimant or legal guardian.* Not more than one recognized organization, attorney, or agent will be recognized at any one time in the prosecution of a claim.

(c) If no notice of disagreement is filed in accordance with this chapter within the prescribed period, the action or determination shall become final and the claim will not thereafter be reopened or allowed, except as may otherwise be provided by regulations not inconsistent with this title.

(d)(1) Where the claimant, or [his] *the claimant's* representative, within the time specified in this chapter, files a notice of disagreement with the decision of the agency of original jurisdiction, such agency will take such development or review action as it deems proper under the provisions of regulations not inconsistent with this title. If such action does not resolve the disagreement either by granting the benefit sought or through withdrawal of the notice of disagreement, such agency will prepare a statement of the case consisting of—

(A) A summary of the evidence in the case pertinent to the issue or issues with which disagreement has been expressed;

(B) A citation or discussion of the pertinent law, regulations, and, where applicable, the provisions of the Schedule for Rating Disabilities;

(C) The decision on such issue or issues and a summary of the reasons therefor.

(2) A statement of the case, as required by this subsection, will not disclose matters that would be contrary to section 3301 of this title or otherwise contrary to the public interest. Such matters may be disclosed to a designated representative unless the relationship between the claimant and the representative is such that disclosure to the representative would be as harmful as if made to the claimant.

(3) Copies of the "statement of the case" prescribed in paragraph (1) of this subsection will be submitted to the claimant and to [his] *the claimant's* representative, if there is one. The claimant will be afforded a period of sixty days from the date the statement of the case is mailed to file the formal appeal. This may be extended for a reasonable period on request for good cause shown. The appeal should set out specific allegations of error of fact or law, such allegations related to specific items in the statement of the case. The benefits sought on appeal must be clearly identified. The agency of original jurisdiction may close the case for failure to respond after receipt of the statement of the case, but questions as to timeliness or adequacy of response shall be determined by the Board of Veterans' Appeals.

(4) The appellant will be presumed to be in agreement with any statement of fact contained in the statement of the case to which no exception is taken.

(5) The Board of Veterans' Appeals will base its decision on the entire record and may dismiss any appeal which fails to allege specific error of fact or law in the determination being appealed.

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CHAPTER 73—DEPARTMENT OF MEDICINE AND SURGERY

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§ 4106. Period of appointments; promotions

(a) * * *

(b) Such appointments as described in subsection (a) of this section shall be for a probationary period of two years and the record of each person serving under such appointment in the Medical, Dental, and Nursing Services shall be reviewed from time to time by a board, appointed in accordance with regulations of the Administrator, and if said board shall find [him] *such person* not fully qualified and satisfactory [he] *such person* shall be separated from the service.

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§ 4107. Grades and pay scales

(a) * * *

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(e)(1) * * *

* * * * * * *

(5) A nurse performing officially ordered or approved hours of service in excess of forty hours in an administrative workweek, or in excess of eight hours in a day, shall receive overtime pay for each hour of such additional service; the overtime rates shall be one and one-half times such nurse's hourly rate of basic pay, not to exceed one and one-half times the hourly rate of basic pay for the minimum rate of Intermediate grade of the Nurse Schedule. For the purposes of this paragraph, overtime must be of at least fifteen minutes duration in a day to be creditable for overtime pay. Compensatory time off in lieu of pay for service performed under the provisions of this paragraph shall not be permitted, except as voluntarily requested in writing by the nurse in question. Any excess service performed under this paragraph on a day when service was not scheduled for such nurse, or for which such nurse is required to return to [her] *the nurse's* place of employment, shall be deemed to be a minimum of two hours in duration. For the purposes of this paragraph, the period of a nurse's officially ordered or approved travel away from such nurse's duty station may not be considered to be hours of service unless—

(A) such travel occurs during such nurse's tour of duty; or

(B) such travel (i) involves the performance of services while traveling, (ii) is incident to travel that involves the performance of services while traveling, (iii) is carried out under arduous conditions as determined by the Administrator, or (iv) results from an event which could not be scheduled or controlled administratively.

* * * * * * *

§ 4110. Disciplinary boards

(a) * * *

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(c) The Chief Medical Director may designate or appoint one or more investigators, to assist each disciplinary board in the collection and presentation of evidence. Any person answering to charges before a disciplinary board may be represented by counsel [of his own choosing] *chosen by such person.*

(d) A disciplinary board, when in its judgment charges are sustained, shall recommend to the Administrator suitable disciplinary action, within limitations prescribed by the Administrator, which shall include reprimand, suspension without pay, reduction in grade, and discharge from the Department of Medicine and Surgery of such person. The Administrator shall either approve the recommendation of the board, approve such recommendation with modification or exception, approve such recommendation and suspend further action at the time, or disapprove such recommendation. [He] *The Administrator* shall cause to be executed such action as [he] *the Administrator* approves. The decision of the Administrator shall be final.

(e) The Administrator, within such limitations as [he] *the Administrator* may prescribe may delegate to the Chief Medical Direc-

tor the authority vested in [him] *the Administrator* by subsections (b) and (d) of this section to (1) appoint the chairman and secretary of a disciplinary board, such official to have the power prescribed by this section, and (2) receive and act upon the recommendations of such a board. Any person against whom disciplinary action is taken under authority delegated pursuant to this subsection shall have the right to appeal such action to the Administrator, but in the absence of such an appeal the decision of the Chief Medical Director shall have the same force and effect as a decision of the Administrator.

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Subchapter III—Protection of Patient Rights

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PART VI—ACQUISITION AND DISPOSITION OF PROPERTY

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CHAPTER 83—ACCEPTANCE OF GIFTS AND BEQUESTS

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§ 5101. Authority to accept gifts, devises, and bequests

The Administrator may accept devises, bequests, and gifts, made in any manner, with respect to which the testator or donor shall have indicated [his] *the* intention that such property shall be for the benefit of groups of persons formerly in the active military, naval, or air service who by virtue of such service alone, or disability suffered therein or therefrom, are or shall be patients or members of any one or more hospitals or homes operated by the United States Government, or has indicated [his] *the* intention that such property shall be for the benefit of any such hospital or home, or shall be paid or delivered to any official, as such, or any agency in administrative control thereof.

§ 5102. Legal proceedings

For the purpose of acquiring title to and possession of any property which [he] *the Administrator* is by this chapter authorized to accept, the Administrator may initiate and appear in any appropriate legal proceedings, and take such steps therein or in connection therewith as in [his] *the Administrator's* discretion may be desirable and appropriate to reduce said property to possession. [He] *The Administrator* may incur such expenses incident to such proceedings as [he] *the Administrator* deems necessary or appropriate, which shall be paid as are other administrative expenses of the Veterans' Administration. All funds received by devise, bequest, gift, or otherwise, for the purposes contemplated in this chapter, including net proceeds of sales authorized by this chapter, shall be deposited with the Treasurer of the United States to the credit of the General Post Fund.

5103. Restricted gifts

Disbursements from the General Post Fund shall be made on orders by and within the discretion of the Administrator and in the manner prescribed in section 5223 of this title; except that (1) if the testator or donor has directed or shall direct that [his] *the* devise, bequest, or gift be devoted to a particular use authorized by this chapter, the same, less expenses incurred, or the net proceeds thereof, shall be used or disbursed as directed, except that a precatory direction shall be fulfilled only insofar as may be proper or practicable; and (2) if the testator or donor shall have indicated [his] *the* desire that [his] *the* devise, bequest, or gift shall be for the benefit of persons in hospitals or homes, or other institutions operated by the United States but under the jurisdiction of an official other than the Administrator, the same, less expenses incurred, or the net proceeds thereof which may come into possession of the Administrator, shall be disbursed by transfer to the governing authorities of such institution, or otherwise, in such manner as the Administrator may determine, for the benefit of the persons in the institution indicated by the testator or donor, for proper purposes, as nearly as practicable in conformity with such desire of the testator or doner.

§ 5104. Disposition of property

If the Administrator receives any property other than moneys as contemplated by this chapter, [he] *the Administrator* is authorized in [his] *the Administrator's* discretion to sell, assign, transfer, and convey the same, or any interest therein claimed by virtue of such devise, bequest, or gift, for such price and upon such terms as [he] *the Administrator* deems advantageous (including consent to partition of realty and compromise of contested claim of title) and [his] *the Administrator's* assignment, deed, or other conveyance of any such property, executed in the name and on behalf of the United States, shall be valid to pass to the purchaser thereof such title to said property as the United States, beneficially or as trustee of the General Post Fund, may have by virtue of any such devise, bequest, or gift, and the proceedings incident thereto, subject to the conditions, limitations, and provisions of the instruments so executed by the Administrator.

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CHAPTER 85—DISPOSITION OF DECEASED VETERANS' PERSONAL PROPERTY

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Subchapter I—Property Left on Veterans' Administration Facility

§ 5201. Vesting of property left by decedents

(a) Personal property left by any decedent upon premises used as a Veterans' Administration facility, which premises are subject to the exclusive legislative jurisdiction of the United States and are within the exterior boundaries of any State or dependency of the

United States, shall vest and be disposed of as provided in this subchapter, except that—

(1) if such person died leaving a last will and testament probated under the laws of the place of [his] *such person's* domicile or under the laws of the State or dependency of the United States within the exterior boundaries of which such premises or a part thereof may be, the personal property of such decedent situated upon such premises shall vest in the person or persons entitled thereto under the provisions of such last will and testament; and

* * * * * * *

§ 5202. Disposition of unclaimed personal property

(a) * * *

(b) If any veteran (admitted as a veteran), or a dependent or survivor of a veteran receiving care under the last sentence of section 613(b) of this title, upon [his] *such person's* last admission to, or during [his] *such person's* last period of maintenance in, a Veterans' Administration facility, *has personal property situated on such facility and* shall have designated in writing a person (natural or corporate) [to whom he desires his personal property situated upon such facility to be delivered, upon the death of such veteran] *to receive such property when such veteran, dependent or survivor dies,* the Administrator or employee of the Veterans' Administration authorized by [him] *the Administrator* so to act, may transfer possession of such personal property to the person so designated. If there exists no person so designated [by the veteran] *by such veteran, dependent, or survivor* or if the one so designated declines to receive such property, or [if he has] failed to request such property within ninety days after the Veterans' Administration mails to such designate a notice of death and of the fact of such designation, a description of the property, and an estimate of transportation cost, which shall be paid by such designate if required under the regulations hereinafter mentioned, or if the Administrator declines to transfer possession to such designate, possession of such property may in the discretion of the Administrator or [his] *the Administrator's* designated subordinate, be transferred to the following persons in the order and manner herein specified unless the parties otherwise agree [as provided in this subchapter,] *in writing delivered to the Veterans' Administration* namely, executor or administrator, or if no notice of appointment received, to the spouse, [child, grandchild, mother, father, grandmother, grandfather, brother, or sister] *children, grandchildren, parents, grandparents, siblings* of the veteran. [In case two or more of those named above request the property, only one shall be entitled to possession thereof and in the order hereinbefore set forth, unless they otherwise agree in writing delivered to the Veterans' Administration.] If claim is made by two or more such relatives having equal priorities, as hereinabove prescribed, or if there are conflicting claims the Administrator or [his designee may in such case select the one to receive such possession,] *the Administrator's designee may in such case deliver the property either jointly or separately in equal values, to those equally entitled thereto* or may make

delivery as may be agreed upon by those entitled, or may [in his discretion] *in the discretion of the Administrator or the Administrator's designee* withhold delivery from them and require the qualification of an administrator or executor of the veterans' estate and thereupon make delivery to such.

(c) If the property of any decedent is not so delivered or claimed and accepted the Administrator or [his] *the Administrator's* designee may dispose of such property by public or private sale in accordance with the provisions of this subchapter and regulations prescribed by the Administrator.

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§ 5203. Notice of provisions of this subchapter

All persons having or bringing personal property on the premises of a Veterans' Administration facility shall be given reasonable notice of the provisions of this subchapter. In case of a mentally incompetent person, notice hereof shall be given the guardian or other person having custody or control of such person or, if none, to [his] *such person's* nearest relative if known. The admission to or continued maintenance in such facility after reasonable notice of the provisions of this subchapter shall constitute consent to the provisions hereof. The death of any person on any such facility or the leaving of property thereon shall be prima facie evidence of a valid agreement for the disposition of such property in accordance with the provisions of this subchapter.

§ 5204. Disposition of other unclaimed property

Any other unclaimed property found on the premises under the control of the Veterans' Administration shall be stored by the officer in charge of such premises and may be sold, used, destroyed, or otherwise disposed of in accordance with regulations promulgated by the Administrator if the owner thereof fails to claim same within ninety days. If undisposed of, the same may be reclaimed by the owner, [his] *such person's* personal representative or next of kin, upon payment of reasonable storage charges prescribed by regulations. If sold, the net proceeds thereof shall be credited to said post fund to be expended as other assets of such fund. The person who was entitled to such property, or [his] *such person's* legal representative, or assignee, shall be paid the proceeds of sale thereof, less expenses if claim therefor be made within five years from the date of finding. If the owner shall have died intestate without creditors or next of kin surviving, such proceeds shall not be paid to [his] *such person's* legal representative.

* * * * * * *

§ 5206. Notice of sale

At least ninety days before any sale pursuant to this subchapter, written or printed notice thereof describing the property to be sold shall be mailed to the owner of the property or, if deceased, to [his] *the owner's* executor or administrator, or to the nearest kin, if any such appear by the records of the Veterans' Administration. If none such appears from said records, similar notice shall be

posted at the facility where the death occurred or property shall have been found (if in existence) and at the place where such property is situated at the time of such notice, and also at the place where probate notices are posted in the county wherein the sale is to be had. The person posting such notice shall make an affidavit setting forth the time and place of such posting and attaching thereto a copy of such notice, and such affidavit shall be prima facie evidence of such posting and admissible in evidence as proof of the same.

§ 5207. Payment of small shipping charges

Upon receipt of a proper claim for such property under the provisions of this subchapter the Administrator is hereby authorized, in [his] *the Administrator's* discretion and in accordance with regulations [by him promulgated] *prescribed by the Administrator,* to pay mailing or shipping charges not to exceed $25 in the case of each deceased veteran as hereinabove defined.

* * * * * * *

Subchapter II—Death While Inmate of Veterans' Administration Facility

§ 5220. Vesting of property left by decedents

(a) Whenever any veteran (admitted as a veteran), or a dependent or survivor of a veteran receiving care under the last sentence of section 613(b) of this title, shall die while a member or patient in any facility, or any hospital while being furnished care or treatment therein by the Veterans' Administration, and shall not leave *any* surviving [him any] spouse, next of kin, or heirs entitled, under the laws of [his] *the decedent's* domicile, to [his] *the decedent's* personal property as to which [he] *such person* dies intestate, all such property, including money and choses in action, owned by [him] *such person* at the time of death and not disposed of by will or otherwise, shall immediately vest in and become the property of the United States as trustee for the sole use and benefit of the General Post Fund (hereafter in this subchapter referred to as the "Fund"), a trust fund prescribed by section 1321(a)(45) of title 31.

(b) The provisions of subsection (a) are conditions precedent to the initial, and also to the further furnishing of care or treatment by the Veterans' Administration in a facility or hospital. The acceptance and the continued acceptance of care or treatment by any veteran (admitted as a veteran to a Veterans' Administration facility or hospital) shall constitute an acceptance of the provisions and conditions of this subchapter and have the effect of an assignment, effective at [his] *such person's* death, of such assets in accordance with and subject to the provisions of this subchapter and regulations issued in accordance with this subchapter.

§ 5221. Presumption of contract for disposition of personality

The fact of death of a veteran (admitted as such), or a dependent or survivor of a veteran receiving care under the last sentence of section 613(b) of this title, in a facility or hospital, while being fur-

nished care or treatment therein by the Veterans' Administration, leaving no spouse, next of kin, or heirs, shall give rise to a conclusive presumption of a valid contract for the disposition in accordance with this subchapter, but subject to its conditions, of all property described in section 5220 of this title owned by said decedent at death and as to which [he] *such person* dies intestate.

§ 5222. Sale of assets accruing to the Fund

Any assets heretofore or hereafter accruing to the benefit of the Fund, other than money, but including jewelry and other personal effects, may be sold at the times and places and in the manner prescribed by regulations issued by the Administrator. Upon receipt of the purchase price [he] *the Administrator* is authorized to deliver at the place of sale, said property sold, and upon request to execute and deliver appropriate assignments or other conveyances thereof in the name of the United States, which shall pass to the purchaser such title as decedent had at date of death. The net proceeds after paying any proper sales expense as determined by the Administrator shall forthwith be paid to the Treasurer of the United States to the credit of the Fund; and may be disbursed as are other moneys in the Fund by the Division of Disbursements, Treasury Department, upon order of said Administrator. Articles of personal adornment which are obviously of sentimental value shall be retained and not sold or otherwise disposed of until the expiration of five years from the date of death of the veteran, without a claim therefor, unless for sanitary or other proper reasons it is deemed unsafe to retain same, in which event they may be destroyed forthwith. Any other articles coming into possession of the Administrator or [his] *the Administrator's* representative by virtue of this subchapter which, under regulations promulgated by the Administrator, are determined to be unsalable may be destroyed forthwith or at the time prescribed by regulations, or may be used for the purposes for which disbursements might properly be made from the Fund, or if not usable, otherwise disposed of in accordance with regulations.

§ 5223. Disbursements from the Fund

Disbursements from the Fund shall be made by the Division of Disbursements, Treasury Department, upon the order and within the discretion of the Administrator for the benefit of members and patients while being supplied care or treatment by the Veterans' Administration in any facility or hospital. The authority contained in the preceding sentence is not limited to facilities or hospitals under direct administrative control of the Veterans' Administration. There shall be paid out of the assets of the decedent so far as may be the valid claims of creditors against [his] *the decedent's* estate that would be legally payable therefrom in the absence of this subchapter and without the benefit of any exemption statute, and which may be presented to the Veterans' Administration within one year from the date of death, or within the time, to the person, and in the manner required or permitted by the law of the State wherein administration, if any, is had upon the estate of the deceased veteran; and also the proper expenses and costs of administration, if any. If the decedent's estate is insolvent the distribution to creditors shall be in accordance with the laws of [his] *the*

decedent's domicile, and the preferences and priorities prescribed thereby shall govern, subject to any applicable law of the United States.

§ 5224. Disposal of remaining assets

The remainder of such assets or their proceeds shall become assets of the United States as trustee for the Fund and disposed of in accordance with this subchapter. If there is administration upon the decedent's estate such assets, other than money, upon claim therefor within the time required by law, shall be delivered by the administrator of the estate to the Administrator or [his] *the Administrator's* authorized representative, as upon final distribution; and upon the same claim there shall be paid to the Treasurer of the United States for credit to the Fund any such money, available for final distribution. In the absence of administration, any money, chose in action, or other property of the deceased veteran held by any person shall be paid or transferred to the Administrator upon demand by [him] *the Administrator* or [his] *the Administrator's* duly authorized representative, who shall deliver itemized receipt therefor. Such payment or transfer shall constitute a complete acquittance of the transferor with respect to any claims by any administrator, creditor, or next of kin of such decedent.

§ 5225. Court actions

If necessary to obtain such assets the Administrator, through [his] *the Administrator's* authorized attorneys, may bring and prosecute appropriate actions at law or other legal proceedings, the costs and expenses thereof to be paid as are other administrative expenses of the Veterans' Administration.

§ 5226. Filing of claims for assets

Notwithstanding the crediting to said Fund of the assets, or proceeds thereof, of any decedent, whether upon determination by a court or the Veterans' Administration pursuant to the provisions of section 5220 of this title, any person claiming a right to such assets may within five years after the death of the decedent file a claim on behalf of [himself] *such person* and any other claiming with the Administrator. Upon receipt of due proof that any person was at date of death of the veteran entitled to [his] *the veteran's* personal property, or a part thereof, under the laws of the State of domicile of the decedent, the Administrator may pay out of the Fund, but not to exceed the net amount credited thereto from said decedent's estate less any necessary expenses, the amount to which such person, or persons, was or were so entitled, and upon similar claim any assets of the decedent which shall not have been disposed of shall be delivered in kind to the parties legally entitled thereto. If any person so entitled is under legal disability at the date of death of such decedent, such five-year period of limitation shall run from the termination or removal of legal disability. In the event of doubt as to entitlement, the Administrator may cause administration or other appropriate proceedings to be instituted in any court having jurisdiction. In determining questions of fact or law involved in the adjudication of claims made under this section, no judgment, decree, or order entered in any action at law, suit in

equity, or other legal proceeding of any character purporting to determine entitlement to said assets or any part thereof, shall be binding upon the United States or the Administrator or determinative of any fact or question involving entitlement to any such property or the proceeds thereof, or any part of the Fund, unless the Administrator has been seasonably served with notice and permitted to become a party to such suit or proceeding if [he] *the Administrator* makes a request therefor within thirty days after such notice. Notice may be served in person or by registered mail or by certified mail upon the Administrator, or upon [his] *the Administrator's* authorized attorney in the State wherein the action or proceedings may be pending. Notice may be waived by the Administrator or by [his] *the Administrator's* authorized attorney, in which event the finding, judgment, or decree shall have the same effect as if the Administrator were a party and served with notice. Any necessary court costs or expenses if authorized by the Administrator may be paid as are other administrative expenses of the Veterans' Administration.